

JYU DISSERTATIONS 34

Urmas Loit

Implementation of Media Governance

A Liberal Approach in the Context of a Small Market



UNIVERSITY OF JYVÄSKYLÄ
FACULTY OF HUMANITIES AND
SOCIAL SCIENCES

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ABSTRACT

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This thesis analyses the implementation mechanisms of media policy in Estonia. The main research problem gradually evolved during the author's participation in several international media policy research groups and reporting.

Compared to many other Central and Eastern European countries, media freedom in Estonia is rigidly upheld, the principle of net-neutrality has never been in doubt and public access to information is not restrained. Still, the research done has exhibited a decline in both the number of journalists and their autonomy. On these contradictions, identifying the actors in media, political and public domains enables the study to ask about the activity of every actor and the values they advocate.

The empirical research has been published in nine works (seven articles and two addenda) of which three focus on journalism and journalists, five on various regulation systems and one specifically with the cultural development of one media channel – radio.

The thesis' cover text provides the empirical research outcome with a frame. The author connects the values for media policy – freedom, autonomy, diversity and pluralism – and the applied analysis of media policy with the 'actor-approach'.

Analysis of the results of the empirical research indicate that the decline in journalists' autonomy derives from business profit opportunities, because Estonia does not have a strong union for journalists and the professional community shows little intent in defending their values.

Innovatively, this thesis suggests a two-dimensional assessment model for media governance. This model offers the means to link the legislative framework to monitoring the activities of various actors. This kind of monitoring is relevant to account for contextual changes over time, which impact on particular actors during media governance planning. Also the changes in the context of international regulation would be accounted for under this monitoring.

Keywords: media policy; media governance, actor-approach, digital media, radio, broadcasting, pluralism, accountability, values, Estonian media.

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TIIVISTELMÄ

Loit, Urmas

Mediahallinnon soveltaminen pienillä mediamarkkinoilla: liberalistinen lähestymistapa

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Tämä väitöskirja analysoi mediapolitiikan toteuttamismekanismeja Virossa. Pää tutkimusongelma kehittyi asteittain tutkijan osallistuttua moniin kansainvälisiin mediapolitiikan tutkimusryhmiin ja niiden tutkimusraportointeihin.

Moniin muihin Keski- ja Itä-Euroopan maihin verrattuna Virossa median vapautta on tuettu päättäväisesti, esimerkiksi tietoverkkojen tasa-arvoperiaatetta (verkkoneutraliteettia) ei ole koskaan kyseenlaistettu eikä kansalaisten mahdollisuuksia tiedon saantiin ole rajoitettu. Tutkimukset ovat kuitenkin paljastaneet, että virolaisten journalistien määrä on laskenut ja heidän ammatillinen autonomiansa vähentynyt. Nämä ristiriidat herättävät kysymyksen media-alalta, politiikasta ja julkisuudesta tunnistettavien toimijoiden toimista ja arvoista.

Väitöskirjan empiirinen tutkimus perustuu yhdeksään julkaistuun työhön (seitsemään artikkeliin ja kahteen liitteeseen), joista kolme keskittyy journalismiin ja journalisteihin, viisi erilaisiin sääntelyjärjestelmiin ja yksi yhden mediakanavan, radion kulttuuriseen muutokseen.

Väitöskirjan johdanto-osa esittelee empiirisen tutkimuksen tulokset tarkoituksenperäisesti kehystettyinä: mediapolitiikan arvot (vapaus, autonomia, monipuolisuus ja moniarvoisuus) yhdistetään mediapolitiikan käytännön analyysiin toimija-lähestymistavan avulla.

Empiirisen tutkimuksen tulosten analyysi osoittaa, että journalistisen autonomian kutistuminen johtuu liiketoiminnan voittopyrkimyksistä. Virossa ei ole vahvaa toimittajien ammattiyhdistysliikettä eikä koko journalistiyhteisö ole kovinkaan innostunut ammattiarvojen puolesta taistelemisesta.

Tämä väitöskirja ehdottaa innovatiivista kaksiulotteista mediapolitiikan arviointimallia. Malli tarjoaa välineen lainsäädännöllisen viitekehyksen ja eri tekijöiden toiminnan monitoroinnin yhdistämiseen. Tämänkaltaisen monitorointi mahdollistaa selvittää, millaiset taustatekijöiden muutokset vaikuttavat tietynlaisten toimijoiden mediapoliittiseen suunnitteluun eri aikakausina. Lisäksi tällainen monitorointi ottaa huomioon kansainvälisen mediasäännöstelyn muutokset.

Asiasanat: mediapolitiikka, mediahallinto, toimijuus-lähestymistapa, digitaalinen media, radio, radio- ja tv-toiminta, pluralismi, vastuullisuus, arvot, Viron media

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I would like to thank my supervisors, especially Professor Epp Lauk for guiding me through this territory of explorations.

I am also grateful to the teams and co-authors within the projects, such as (1) Mapping the Digital Media (MDM), (2) Media Pluralism Monitoring (MPM), (3) “European Media Policies Revisited: Valuing and Reclaiming Free and Independent Media in Contemporary Democratic Systems” (Mediadem) and (4) “Media Accountability and Transparency in Europe” (MediaACT), the international cooperation with whom widened my perspectives in realizing the media sphere in dimensions that had been largely unknown to me. These projects were funded or co-funded by the Open Society Foundations (1), the European Union (2), and in particular, the European Community's Seventh Framework Programme (3 & 4).

I acknowledge the reviewers whose insightful remarks fine-tuned the focus of my thesis, which covers a very wide scope of aspects of media policy making in Estonia that have yet not been comprehensively addressed. For the reader, such an expansive view can be distracting. I am grateful to the English language editing by Marcus Denton (www.derettens-english-language-editing.com) who smoothed the text into intelligible output.

My thanks go also to my colleagues and ancillary staff at both Tartu and Jyväskylä Universities for their support during my doctoral studies, and definitely to my family who daily needed to witness the creative pains of a middle-aged man.

Jyväskylä 1.10.2018
Urmas Loit

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1 INTRODUCTION

Currently, the analysis of media and communication policy and regulation has become extremely relevant to the society as the media economic models are confusingly shifting. On one hand, for democratic society it has become vital if – and to what extent – the state sustains the production of autonomous news contents. On the other hand, the fundamental change in news media business models are demolishing the old news media system, hence societies must negotiate if the old values concerning media policy are still relevant and what could be the new ways to support these values?

The presumption of this thesis is that media policy making process itself is a media policy, as media system analysis, which once started from a statistic description, has been getting more dynamic (Jakubowicz 2010, 1). Therefore, the most important question is: who should be, and who are actually negotiating about regulations and policies concerning media performance: the values that are supported or are avoided, the influence on structure and ownership, the content regulations; the functions? Who should take responsibility for the current performance and the future performance of the news media as a supporter of democracy? The emphasis on actors was also present in the Seventh Framework Programme project Mediadem¹, which I worked on, and it is the main approach of the current thesis on Estonian media policy implications. The empirical analysis is fully carried out in the articles.

The other approach is unique concerning the present thesis and is therefore more extensively discussed in the present “cover text”. Namely, to critically analyze the negotiations and performance of different actors, one should ask what kind of information is available about these actors, who (which institutions or/and organizations) collect and own this information and is this information accessible and useful for the policy makers? In other words: do the possible negotiators really know about the current state, risks and possibilities of the national news media? Does someone (any institutions and organizations) monitor media performance and decide about governance practices?

¹ ‘European Media Policies Revisited: Valuing & Reclaiming Free and Independent Media in Contemporary Democratic Systems’ (grant agreement FP7-SSH-2009-A no. 244365).

In the context of the present thesis, media policy is considered *a process*, and **media governance by certain stakeholders and actors** is one of the dimensions of the model proposed in this thesis.

Another dimension is related to the current change in media environment. Again, by taking into consideration different elements that influence media performance in one or another national media system – and these changes are not synchronized – the model proposes to create several monitorable indicators, reasonably considering the cultural context, market size, shifts in regulations, and social and technological developments of a particular country.

In the context of the present thesis it is also important to clarify the meaning of the “media” – as the different definitions of “media” emphasize different dimensions. Jakubowicz (2012, 240) provides three different focuses that provide the best approach to be developed, for this thesis.

1. Physical or other infrastructure that mediates in the process of transmitting or distributing the message or content;
2. Media organization that produces the content, also involving the editorial and other processes required for the development of content to be distributed to a mass audience;
3. Tasks and functions of the media, such as information, education and entertainment, or any combination of these, as well as influencing public opinion (especially in the case of news media) and availability to all potential receivers or at least to a significant part of the public.

Jakubowicz adds that in this approach any platform for the distribution of content, can be called “a medium”, hence technological and social change has to some extent de-institutionalized the media content.

The functional dimension is most useful as this enables to distinguish the values. In this thesis, the focus is on the type of media, which has to provide trustful, unbiased information for variety of target groups; and is able to support the value of transparency in society.

The complexity of the concept of “media” is therefore quite confusing when analyzing implementation practices for media policy in a small country – Estonia. Therefore, this thesis provides a different approach that enables examining media governance in a more systematic and coherent way – the *actor approach*.

For the current thesis, the empirical material has predominantly been gathered during comparative projects that used traditional comparative research as Frank Esser describes it: “... conduct[ing] a set of case studies that use a common comparative framework and are closely synchronized in theory, method, analysis, and interpretation” (Esser 2013, 119). In every research and report a question on comparability emerged: in the case of media policy it is substantial to consider that universal processes do not occur simultaneously in different countries but do equipose over time (Harro 2000). The thesis provides a two-dimension model with a focus on process analysis, enabling to assess *comparability* as a collateral or indirect gain.

1.1 Research purpose and approach

The aim of the research is to observe and analyze the implementation of a 'liberal' media policy in the small markets, using Estonia as an example.

The final aim of the thesis is to generalize the theoretical and methodological results of these studies, and propose a **two-dimensional assessment model for media governance implementation** (Section 4.6).

The thesis consists of a "cover text", seven articles/ book chapters/ reports, mainly published within three comparative media-monitoring projects, and two addenda expounding the substance of these entries, yet not constituting a full-scale independent component regarding the requirements to a doctoral thesis.

The research was triggered by the theoretical foundation laid within the Mediadem project by Dia Anagnostou, Rachael Craufurd Smith and Evangelia Psychogiopoulou – *The formation and implementation of national media policies in Europe and their relationship to democratic society and media freedom and independence: A theoretical and analytical frame for the MEDIADDEM project* (2010) – according to which media policy should be based on various actors. The aim of the thesis is to exhibit how the practices of different actors influence media performance and form media policy: are the actors' practices based on integral and consensual value clarification or, vice versa, do the aims and practices emerge from various statutory documents rather than stand for separate interests of the media actors?

The work will critically analyze the evens and odds of liberal media policy from the perspective of media actors. The work primarily focuses on broadcasting policy as this is the most distinguishable media-political discourse in Estonia – as established by law², and involving statutory licensing and surveillance procedures.

A second focus is those actors who shape media policy in the digital era. A third focus is self-regulation, as in this field it is possible to follow clear social representations. On a discursive level, the analysis takes into consideration the rulings of the law court and the Data Protection Inspectorate of Estonia.

The research questions have been set as follows:

1. What are the main actors implementing the media governance in Estonia?
2. What are the activities and expediency of various actors as influencers of the media governance discourse in particular (including media accountability as a tool developed by some actors)?
3. What is the role of the state: the state activities in the field of media monitoring: and particularly surveillance of compliance with license conditions by radio stations – and to elaborate a method for such monitoring?
4. What data, and how, should be collected and by whom to create a current media monitoring system?

² There is no general 'media law' in Estonia.

5. What values are and/or should be central in this monitoring system and how these values are implemented in regulative practices?

6. What data are, or could be, used for developing the media governance?

7. How different actors and regulative norms and practices and daily implementation would be synthesized into an integral system (the proposed assessment model will address this issue).

All these research questions (*what?* and *how?*) focus the thesis on norms, decisions and practices shaping the media policy in Estonia, and on studying actors' conduct and interrelations.

As the author, I have deliberately avoided any *why* type questions because, in a diachronic perspective, discussing the motives of policy actors' behaviour would necessitate a distinctive approach, a vertical one exploring deeply in the context of a very few narrow topics. The current thesis, on the contrary, tends to study the shaping and execution of media policy horizontally, as an interrelation of various factors.

For instance, when formulating the research question about media monitoring, one may analytically scrutinize what data are collected, by which institutions and with what frequency but the thesis complicates finding out the reasons for deficient data collection. The latter would need multiple expert interviews both with politicians and state officials and, therefore, would constitute the next individual subject for research.

The goal of the research is to construct a model for assessing and monitoring the activities of media policy actors considering the need for a small national culture to maintain and develop news journalism even after the collapse of its commercial models.

1.2 Structure

The structure of this thesis sets forth a synthesis of two major thesis types done in the University of Jyväskylä – article dissertation and monograph, incorporating the features of the both. The thesis includes several international research reports (reviewed by international editorial commissions or advisory boards) on Estonia, which by volume and coverage span provide full survey of various media policy domains. The peer-reviewed articles (and the equivalents) contain the in-depth analysis of the most conjectural considerations.

Media governance is a subject field inholding vast empiric data volume. In this area, the synthesis of the data and problem-solving analysis would be necessary for aggregating the results into a whole. My experience with academic research tells that fragmentation of media-political analysis causes problems for implementation, as absence of an integrated view disables to note chain reactions triggered by change in the external environment. Narrow perspectives (as presented in journal articles due to its format) would rather distort the integrity of the field. Media governance analysis benefits from an integrated view.

In the cover text, the author of the thesis will provide theoretical context to the thesis; discuss the research methodology of media policy implementation nationally and in comparative perspective; provide a summary of the research results that are presented in 7 publications³ and 2 addenda. Finally, the cover text provides a two-dimensional assessment model for media policy implementation in a nation-state.

The structure of the “cover text” is as follows:

The second chapter will be devoted to the description of theoretical approaches on media governance, relevant to the thesis, with the focus on actor approach in media governance.

The third chapter will provide a summative description of various methods used in gathering data and analysis followed by the critical discussion on the possibilities, risks and shortcomings of these methods. Special focus will be put on the comparativeness of media policy analysis and the content monitoring method on broadcasting. It will also present the main findings on media governance in Estonia and the problems that have been discovered by the author.

The fourth chapter will sum up the research by presenting the policy recommendations which have been produced within the works comprising this thesis. It also will present the generalized two-dimensional model of media-policy implementation process. The elements described in this model have been developed in different published articles included in this thesis.

1.2.1 Publications presented in the thesis

As to the “Dissertation requirements” at the University of Jyväskylä, the following Entries, journal articles and book chapters, qualify as “articles”: **2, 3, 4, 6**.

The rest - **1, 5, 7** - are research reports executed under international projects investigating various aspects of media policy. The publications somewhat deviate from the classical definition of “a peer-reviewed article” (in a journal) but have the international Editorial Commission (Entry 1) or the Advisory Board (Entries 5 and 7). These bodies reviewed the publications prior to release. In the case of Entry 1, the Open Society Media Program as the publishing entity also arranged blind reviews by some national experts.

³ Termed as “a Study” or “an Entry”.

1.⁴ Loit, U.; Siibak, A. (2013). *Mapping Digital Media: ESTONIA*. 1-84.

This report is a part of a global research project carried out by the Open Society Foundations. Mapping Digital Media project examined the impact of the “digital switchover” on journalism, democracy, and freedom of expression in 56 countries, based on comparable methodology. The project includes analysis, and research on how digitization is changing media output, media freedom, and citizens’ access to quality news and information. Mapping Digital Media works, as put by the OSF, sought to protect the public interest in media policy, maximize the opportunities created by digitization, and respond to its challenges.⁵

The report is written by Urmas Loit, except for the Section 3 on social media online, which was entirely written by the second author Andra Siibak.

2. Harro-Loit, H.; Loit, U. (2014). *The Role of Professional Journalism in the 'Small' Estonian Democracy*. E. Psychogiopoulou (Ed.). *Media Policies Revisited. The Challenge for Media Freedom and Independence* (pp. 206-219). Hampshire: Palgrave Macmillan

The chapter is published in the second book of the Mediadem project. The text appeared in the part of the book which “centered on the journalistic profession and the mechanisms that may shield journalists from exposure to political, economic or other constraints, supporting free speech and its responsible use” (Psychogiopoulou 2014a, 5-6). The Chapter looks at journalistic autonomy in Estonia. As the editor of the book remarks, “although constitutional and legal safeguards for free speech protect the media from undue political influence, the authors note that journalists face a number of pressures in their everyday work that may affect reporting and the provision of accurate, trustworthy information. Journalists’ collective understanding of what professional journalism is and individual readiness to uphold professional values may serve to offset such pressures” (Ibid.).

My contribution in this work is data collection, including making several interviews quoted in the chapter, figure designing, etc. I also participated in writing the article, which mostly was done as joint teamwork.

3. Loit, U. (2012). *Radio in Estonia: Meagre but Enduring*. *Journal of Radio & Audio Media*, 19(2), 288-302.

The article describes the historic development of radio in Estonia, characterizing radio as a cultural feature rather than a purely business matter. This is the way the entire Estonian journalism can be described throughout the ages. The example of radio illustrates the claim in Harro-Loit and Loit (2014, 217; Entry 2) about media policy in Estonia under which the autonomy of professional journalism is, inter alia, shaped by “historical discursive institutionalism”.

The article was published in connection with the Symposium “Radio in the former Soviet republics”. I am the sole author.

4. Loit, Urmas; Harro-Loit, Halliki (2012). *Media Policy in Estonia: Small Market Paradoxes*. E. Psychogiopoulou (Ed.). *Understanding Media Policies. A European Perspective* (pp. 85-99). Hampshire: Palgrave Macmillan

This book was the Mediadem project’s first publication. The chapter “provides a thorough review of the Estonian media policy and the liberal market ideology that characterizes it. Despite strong protection for the freedom of the press, the Estonian media policy, the authors note, shows inconsistent patterns of development, and lacks analysis and balancing

⁴ Numeration provided for further references in this thesis.

⁵ See Open Society Foundations. (2014). Background. *Projects: Mapping Digital Media*. <https://www.opensocietyfoundations.org/projects/mapping-digital-media/background>. Accessed 15 Jan 2018.

of value dilemmas, in particular as regards the constraints that the small size of the market presents for the journalists' autonomy" (Psychogiopoulou & Anagnostou 2012, 17-18).

My contribution (as the first author) in this work is data collection, formatting the display of the content. The final writing was done as joint teamwork under my leadership.

5. Harro-Loit, H.; Loit, U. (2011). Does media policy promote media freedom and independence? The case of Estonia. Athens: Eliamep.

This is the second, interim report of the Mediadem project published online. The case study report discusses "the policy processes and the regulatory tools that have a bearing on the development of free and independent media in the country. The case study report engages in an empirical study of the institutional dynamics of media policy-making in the countries under review. It also examines the regulatory framework governing the media, investigating whether the domestic rules, as enacted and implemented, facilitate the development of free and independent media. The methodology employed for the case study reports combines an examination of primary resources, secondary literature and semi-structured interviews with policy-makers, journalists and independent media regulators, amongst others."⁶ As a unique component, the study contains an overview of court cases on media.

My contribution in this work is data collection and compilation and interviewing the experts. I also fully carried out the radio programme monitoring (page 22) which went beyond the initial setup by the project and provided more definite grounds for the study. The final writing was done as a joint teamwork.

6. Loit, U.; Lauk, E.; Harro-Loit, H. (2018). Estonia: Conflicting views on accountability practices. T. Eberwein, S. Fengler, M. Karmazin (Eds). *The European Handbook of Media Accountability* (pp. 63-72). London: Routledge

The chapter provides analysis of the media accountability tools and structures in Estonia in the comparative context of other European countries. It also provides "a synopsis of relevant research, exploring the role of media accountability instruments, including both media self-regulation and new instruments that involve audiences and stakeholder groups" (Eberwein et al. 2018). The editors aim the Handbook to be a basis for further research and policy-making.

The chapter is an improved version of a chapter of an earlier book (T. Eberwein, S. Fengler, E. Lauk, T. Leppik-Bork (Eds.). (2011). *Mapping Media Accountability – in Europe and beyond* (pp. 36-49). Köln: Herbert von Halem Verlag) which was published under Medi-aACT project.

I, as the first author, compiled most of the results of the empirical data. The writing was done as a joint teamwork.

7. Loit, U.; Harro-Loit, H. (2010). The case of Estonia. In *Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe* (pp. 132-161). Athens: Eliamep.

This is the first interim report in the Mediadem project published online. It thoroughly reviews the media situation in Estonia to establish the grounds for further media policy studies. As defined by the Mediadem project, "the report discusses the configuration of the media landscape in the countries under study, explores the main regulatory instruments used to govern the media, and assesses the implications of the policies conducted for democratic politics."⁷ I have been the leading contributor of this report.

⁶ <https://www.eliamep.gr/en/project/mediadem/>

⁷ Ibid.

1.2.2 Addenda to expound the substance of the Entries

Additionally, there are two more publications added as addenda to this thesis. These serve as complementary, expounded contemplations to add a further illustrative angle to the media policy matter in the context established in the above listed articles and studies.

-
- Loit, Urmas; Harro-Loit, Halliki (2017). *Media Pluralism Monitor 2016. Monitoring A1. Risks for Media Pluralism in the EU and Beyond. Country report: Estonia (1-16). Firenze: CMPF.***
<http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/estonia/>
-

The Media Pluralism Monitor (MPM) as a research tool has been designed to detect potential risks to media pluralism in the Member States of the European Union. The Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute set up a standardised questionnaire and apposite guidelines for the research. The country team (including Urmas Loit) conducted data collection, assessed the variables in the questionnaire, and interviewed relevant experts. The report was reviewed by the CMPF staff.

Even though the methodology derived predominantly from the CMPF and the country team had some objections to some particulars in it, the input provided during the project was the sole responsibility of the country reporters – and so was the final narrative.

My contribution (as the first author) in this work is most of the data collection and the final writing.

-
- A2. (2012). Seireraport [Monitoring Report]. Translation into English. (9 pages). Manuscript, Tartu.**
-

This is a follow-up report to the one cited in Harro-Loit, H. & Loit, U. (2011) – Entry 5. It is an addendum to this thesis rather than its full entry and can be regarded as a tool for monitoring a radio program which is hard to be monitored in a fully automated way for getting quantitative or (especially) qualitative data for assessment.

The analogous reports have no indication of the author but, in the context of this thesis, the work might obtain the copyright.

I fully worked out the methodology (initially, for executing an order for the Ministry of Culture), did the programme measurement and wrote the report. For the thesis, the report has been translated into English and presented with excerpts of the appendices as for illustration.

As an Annex, the Mediadem policy report assembling policy recommendations for Estonian national actors has been appended:

Harro-Loit, H. & Loit, U. (2012). Policy suggestions for free and independent media in Estonia. In *Policy report addressing state and non-state actors involved in the design and implementation of media policies supportive of media freedom and independence, the European Union and the Council of Europe* (pp. 43–51). Athens: Eliamep. Available online <https://www.eliamap.gr/wp-content/uploads/2012/11/D4.1.pdf>.

In addition, four comparative media-monitoring projects are covered in the thesis, as the author of this thesis has been a rapporteur for several international comparative media policy projects. Being a rapporteur has provided me

with a unique perspective to compare and critically discuss the data collection methodology and comparativeness of media policy and analysis.

- (2005). *Television across Europe: regulation, policy and independence*. Budapest: Open Society Institute; EU Monitoring and Advocacy Program.
- (2013). *Mapping Digital Media*. London: Open Society Foundations. [included as part of the thesis].
- (2007). Estonian media landscape. In: Terzis, G. (Ed.). *European Media Governance: The National and Regional Dimensions*. Intellect. And an update for this online (2010)⁸.
- (2017). Estonia. In: *Media Pluralism Monitor (MPM) 2016 – results*. This examined 28 European Union member states as well as two candidate countries, Montenegro and Turkey. MPM is a tool that has been developed by Centre for Media Pluralism and Media Freedom (CMPF) to assess the risks for media pluralism in a given country. Prior to the implementation, the tool has been tested under pilot-projects (in 2014, the author of this thesis participated in the Estonia team). The final country narrative of 2016 has been appended to this thesis (Addendum A1).

I have been a member of the commission of the Estonian Ministry of Culture for issuing broadcasting licenses, 1999-2009; The same at the Technical Surveillance Authority, in 2013 and 2017. I participated in the work of working groups amending and improving laws on broadcasting, including the one removing advertising from public TV, and the working group for introducing the EU AVMSD to the national law. In this respect, many observations made in this work about media policy of Estonia and its implementation can be handled as “first hand” information.

⁸ Cf. http://ejc.net/media_landscapes/estonia

2 THEORETICAL FRAMEWORK

As news media is considered an instrument for implementing democracy, the assessments of media system performance are often grounded in democratic theory (Karppinen 2013). In democratic countries, there has been a long-lasting debate over regulation and deregulation of the media by the state. Denis McQuail has stated that “for decades, specific normative issues have been fought out in the political and judicial arenas of most national societies” (1992, 31). Hannu Nieminen (2016) adds that such norms have also been “stipulated in a number of international agreements and conventions” but without a “binding global regulatory framework” to enforce it. Wide academic discourse has been developed on broadcasting policy (as broadcasting has always been a subject for more extensive regulation than the press) and the role of public broadcasting (e.g., Jakubowicz 2004, 2007; Syvertsen 2003; Jõesaar 2011; Larsen 2014; Gallego et al. 2015; Michalis & Nieminen 2016; Benson et al. 2017), and more specifically the changes in content control in digital broadcasting (e.g., Kenyon, Thomas, & Bosland 2012). The fundamental divide is between the belief in market forces (‘liberal’, i.e. market-oriented media policy that speaks about *consumers*) and the belief that a degree of regulation is needed, in order to create free and pluralistic media culture that meets the needs of *citizens*.

The values *free* and *pluralistic* are universal, neither questioned at the EU level (e.g. overview on ‘the freedom of the media’ concept and the international legal key documents provided by Andrei Richter, 2016), nor by academia. “Free” means *independent* and *autonomous*, while *pluralism* is usually interpreted as a principle that should guarantee the citizens’ *access* to a wide range of information and ideas. *Access to information* should not be passive but the originators and holders of public information should actively disseminate it.

Values, marked above in *Italic*, appear to be, so to say, desirable. In other words, they express the expected outcome. Concurrently, the above-mentioned values have the same implication in various contexts. Furthermore, their effect on various societal groups and societies in whole can vary.

Thus, it cannot be argued that these values would be universally desired in media policy. However, these values need to be kept in mind when shaping

media policy, and their consideration and interpretation would contribute to assessment of media policy.

When in most cases media policy is expressed in adopted legal acts and these laws can be delineated, the actual interpretation and implementation involves many players. Therefore, monitoring and analysis of the actual implementation of the media policy appears to be far more complex than merely detecting the intentions itemized in the effective legislation. In addition to the legal regulation, increasingly more emphasis is put on self-regulatory and accountability mechanisms. Partly, the basic values are the same: free and autonomous (news) media, media pluralism, access to information.

The analysis of the media policy implementation should find answers to the questions who and how interpreters and implements these values in daily practices.

Dia Anagnostou et al. (2010) urge that the expectation for the values formalized as aims or otherwise implicitly noted in official documents to practically become into effect when enforced would often be naïve:

“Once decisions on the course of media policy have been reached and goals and regulatory instruments identified, the attention is directed towards putting such decisions into practice and ensuring that policy delivers the desired results. Academic studies of media policy and regulation have paid less attention to this stage of media policy. Moreover, they have largely been based on the assumption that the rules and regulations introduced will be applied with due respect to their original intent, and that monitoring organs, including the courts, will ensure their enforcement. Turning policy into practice, however, is not an automatic or unhindered process. Indeed, the relevant legal norms and national policies are not always implemented, or they may be widely ignored in some cases and in some countries.”

(Anagnostou et al. 2010, 8 - bold lettering is the author's - UL)

For instance, Kirkpatrick, when criticizing the traditional analysis of media policy, is addressing **the daily implementation on the commonplace** by various individuals and interest groups. He writes that,

“...we recognize that the First Amendment is a media policy, but we rarely think about a ban on Hustler at a local homeless shelter as being media policy as well. Furthermore, just as not all media policy is official, not all media policy is top-down, suggesting yet another level of policy operating here that really does not get talked much about in policy studies: bottom-up resistance as policy.”

(Kirkpatrick 2013, 635).

With this somewhat provocative example of resistance (as a way of implementing media policy) Kirkpatrick spotlights a substantial aspect from the viewpoint of this thesis: the importance of daily implementation of media policy by various lay members and other stakeholders who might not be recognized in the traditional media policy analysis.

Concurrently, while the general positive values (freedom, pluralism) are more or less negotiated and clearly expressed in various documents, values practiced rarely are implicit, and are usually not recognizable. Still, one can assume that various stakeholders have different interests and, therefore, more, usually competing, values occur which may or not be supported in actual media governance process.

Dia Anagnostou et al. (2010) define the core idea of actor-approach as following:

“As a fundamentally political and conflict-ridden process, media policy-making involves **competing political and corporate interests that seek to impose particular values and priorities** on how the media should be structured and should operate, contending as much for material advantages as for ideological legitimation. **Political actors and interest groups** with distinct and competing preferences respond to and act within particular structural contexts defined by technological, economic, institutional, political and societal parameters. /---/ Media policy, as expounded in a burgeoning literature on the subject, is shaped by a **multiplicity of actors and institutional structures, besides the state, that interconnect and interact among each other in various venues and through various processes in order to organize the media system.** /---/” The variety of stakeholders that play a role in defining values, norms and tools for media policy, coupled with the recognition of both visible and invisible, express and latent policy mechanisms (Braman 2004, 164-166), has prompted others to suggest a shift in terminology from “media policy” to “**media governance**” (Puppis 2010, 134). Besides recognition of the fact that policies concerning the media are formulated at different levels of government – the European and international, national, and subnational – **the concept of governance** is also intended to convey the fact that the state might no longer be the pre-eminent actor. The state **makes and implements policy alongside a variety of other public, semi-public and private actors.**” (bold lettering is the author’s - UL)

In this thesis, two expressions – *media governance* and *media policy* – are both used. On more general level, I shall use the concept “media governance”, as this enables emphasizing the complexity of media regulation, official policy and interplay between various actors and stakeholders in the policymaking process. As the main innovative aspect in the current thesis is to study media policy implementation, the concept of “media governance” has currently been operationalized both in the empirical works and the “cover text” as analysis of policy actors empowered by the state or personal interest.

In 2010, Manuel Puppis suggested that “Media governance” as a new analytical approach would suit for the analysis of media policy and regulation:

“...as an analytical concept, media governance offers a new perspective and allows for seeing aspects of media policy and regulation so far overlooked /.../ the media governance concept /.../ offers an **integrated view** on rules that aim to organize media systems, whether these rules are changing or not. As a positive approach, it allows for discussing the **interplay** between statutory regulation and self-regulation, among the national, the regional and the global **levels**, and between collective and organizational forms of rules. Governance endows scholars with the glasses to see and the vocabulary to describe **networks of actors** and the blurring of boundaries between the private and the public sector and between different political levels. And as a normative approach, media governance allows for criticizing shortcomings of existing rules and for generating ideas for improvement.”

(Puppis 2010, 135, 144-145 – bold lettering is the author’s - UL).

Karol Jakubowicz, writing about media governance structures, adds an aspect that the number of stakeholders affecting media policy has significantly increased and, thus, he underlines the exigency to go in for players’ interaction:

“The number of stake-holders in any policy-formation process has grown enormously. /---/ Governance involves a more complex, differentiated and diffuse systems of decision- and policy-making and control than is the case with the institutions and

functions associated with 'traditional government': **governance refers to the process of governing** (i.e. collective problem solving in the public realm) and **to interaction between participants in this process** (cf. E-governance. Democracy, technology and the public realm, n.d.) rather than to the institutions and agencies which make up government. As a result, any **policy and the regulatory frameworks created in this process result from an interplay of divergent forces**, seeking to achieve a workable compromise between their **different interests and goals**.

(Jakubowicz 2007b, 199; bold lettering is the author's - UL).

Ginosar (2013) when referring to a select number of other authors summarizes some of the discussions over the concept on "media governance":

"Media governance has turned out to be a 'catch-all word' in communication literature (Puppis 2010). Some communication and media scholars use the term as a descriptive framework of communication control systems (Freedman 2008); others address it as a substitute for 'media policy' and/or 'media regulation' /---/" (D'Haenens, Mansell, & Sarikakis 2010). /---/ Yet there is one element that is very often related in the literature to governance: institutions. More specifically, **governance is conceived as an institutional alternative to the traditional state institutions' control of economy and society. From the institutional aspect, governance refers to structures and rules as well as to a variety of stakeholders, such as state-actors, public actors, and private ones. These actors are addressed as equal partners in shaping and implementing public policies and regulations** (Rhodes, 1996, 2007). Furthermore, governance is not distinct from governmental order solely because of its **multiactor nature; rather, another key feature is its multilevel nature.**"

(Ginosar 2013, 356-357 - bold lettering is the author's - UL).

Thus, "media governance" is more dynamic concept than the 'classical' media policy. However, "media policy" is a better term to use when I speak about state regulations and implementation of these norms. Concurrently, certain documents and regulations are still labelled as policy documents or documents which support political decisions. Accordingly, for example, it would be more accurate to speak about "liberal media policy" when analyzing regulations on licence fees for commercial broadcasters or regulations concerning net neutrality, etc.

In this thesis, I will switch to the notion of "media governance" when my analysis is carried out on an abstract, or holistic level and signifies what Rhodes (1996; 2007, cited by Ginosar 2013) has indicated above: "Governance refers to structures and rules as well as to a variety of stakeholders, such as state-actors, public actors, and private ones". This applies also to the two-dimensional model on assessment of media governance, provided in Section 4.6.

In this thesis, the term "liberal media policy" is not what Hallin and Mancini (2004) labelled as "North Atlantic or liberal". Therefore, the notion "liberal media policy" stands for minimal intervention or regulation of media, so that **few restrictions but also few fostering mechanisms** occur. For example, there is no specific media law, no ownership regulation, no certification system for journalist (like in Italy), no special accessing-rights for journalists; no specific subsidies or tax conditions for commercial news media; no regulatory barriers for market entrance. Still, there is high net-neutrality and high protection of press freedom. Without the last, the "liberal approach" could be interpreted as fully "non-interventional media policy" (see more in Section 2.2.1.1., subsection

'State'). Concurrently, several items point out that Estonia's media policy is liberal: **protection** of press freedom (in Estonia, it is the utmost value); no advertising on public broadcasting is allowed (the public broadcasting is off the advertising market); and everyone's access to public information is granted (not only on request but must be accessibly uploaded on the Web).

The second issue is the difference between "stakeholders" and "actors". *Actors* are always *stakeholders*, but not all *stakeholders* are *actors*. Any individual or group with an interest in the success of an organization in delivering intended results would be a stakeholder. This thesis used the actor-approach.

2.1 Values and principles in media policy analysis: freedom, autonomy, diversity and pluralism

Freedom (of expression) is a controversial value and principle in current media policy. On one hand, most of the Western democracies have constitutional guarantee to the freedom of expression. On the other hand, freedom of expression as a concept is more and more jeopardized by "hate speech", as the difference between incitement to certain identity groups and offence is not always clear. As Fenwick and Phillipson (2006, 517) illustrate: "The satirical Monty Python film, *The Life of Brian*, for example, did cause offence to certain Christians at the time of its release, /---/ But it would be very hard to make out any kind of plausible argument that it incited hatred against Christians, or Jews, however much it may have offended them". In European media policy, the "prime cases" to illustrate how different cultural understanding on values like freedom and offence bring along a serious conflict are the *Jyllands-Posten* case in 2005 (cf. Triandafyllidou 2009) and *Charlie Hebdo* case (cf. Mackay & Horning 2017).

These cases indicate that the *freedom of expression* and the *access to the ideas and information* serve as basic undoubted values in Western democracies but not in all cultures and societies. The representatives of those other cultures may appear as policy actors also in the Western societies (due to multiculturalism and globalism). This necessitates renegotiating the heretofore values, even the ones fixed in the constitution. Similarly, any core value may need permanent reevaluation among different actors over time due to changing context in the society.

Freedom as a value is also connected to autonomy and media independence. Autonomy is the most central value for news media (e.g., Scholl & Weischenberg 1999; Singer 2007; Luengo 2012; Lauk & Harro-Loit 2017).

There is a clear difference between autonomy of news media as an institution and autonomy of journalists. The main difference is that journalists have more pressure groups and they usually feel that they need to be accountable and loyal to several different stakeholders (Harro-Loit 2015). The collapse of the well-functioning business model of the journalistic media, extensive dismissals

of journalists (especially in the USA) have remarkably reduced the autonomy – through a decrease of job security (Compton & Benedetti, 2010).

The level of media independence is usually described via various influences or pressures on editorial decision-making, e.g., various stakeholders but also the financing system (Psychogiopoulou 2014b, 28-31; Harro-Loit 2015).

Concurrently, while citizens usually need the independent news media, which they can trust, because being stakeholders (e.g., a businessman, a politician, etc.) they would not like the media to behave towards them so that they, the public, cannot influence either media or journalists. In other words, while asking about the risks to news media autonomy one can immediately ask about the possible pressure groups and then about legal, economic and cultural factors that either strengthen or weaken these risks.

This explains the need to include the actor/stakeholder approach into the media policy implementation analysis but also demonstrates why it is important to start by defining and discussing the values. Thus, it is important to clarify the difference between the freedom and autonomy.

The second value – diversity/pluralism is a well debated value and concept in academic scholarship on media, and it is increasingly conceptualized as a measurable assessment criterion for media policy (Karppinen 2006; 2007a; 2007b; Brogi et al. 2017).

“In both political and analytical discourses, the concepts of media pluralism and media diversity are used more or less synonymously, raising some confusion regarding the difference, or a possible hierarchy, between the two concepts. /.../ The notion of media diversity is generally used in a more empirical or tangible meaning, whereas pluralism refers to a more diffuse societal value or an underlying orientation. In the broadest sense, the concept of media diversity refers to the heterogeneity on the level of contents, outlets, ownership or any other aspect of the media deemed relevant. Respectively, different frameworks have been suggested to analyze its different subcomponents such as source, content and exposure diversity, as well as their mutual hierarchies and relations (see McQuail 1992; Napoli 1999; Hellman 2001; Doyle 2002).”

(Karppinen 2007a, 9-10).

As a value, pluralism, can be defined very simply “...in whatever field of enquiry, refers to a theorized preference for multiplicity over unicity and diversity over uniformity” (Karppinen 2007a, 9).

On one hand, the protection of media pluralism has been a recurrent concern of the European Parliament, which has invited the Commission on several occasions since the 1990s to propose specific measures to safeguard media pluralism – while this interest has been focused in several cases to the threats and possibilities: freedom of expression; highly concentrated markets and regulatory safeguards which could prevent the undue concentration of control over the media; media literacy (Valcke et al. 2010). These indicators enable to create several combinations where in some cases the pluralism results in overload of information for the society which gets fragmented with a deficit of ability of receiving the messages (i.e., listening) by different partakers. On the other hand, the assessment of pluralism (the risk indicators) may point to mechanisms producing and reproducing the dominant hegemonic ideology.

Karppinen sums up the central question about the most important values in media policy: "... how to conceptualize the need for pluralism and diversity, inherent in all normative accounts of the public sphere, without falling in the trap of relativism, indifference and an unquestioning acceptance of market-driven difference and consumerism?" (2007a, 10).

So pluralism cannot be reduced merely to diversity of options as such, it is as much about a system of representation within a given society that allows for different political viewpoints and different forms of expression to be visible within the public sphere (Doyle 2002: 14).

"The belief that consumer choice directs the media in accordance with the general will of the people misses that the influence of the consumer is passive, reactive rather than pro-active" (Karppinen, 2007a).

"In particular, with the media market increasingly being structured into smaller segments and citizens getting less and less exposed to competing views and unnoticed problems, there is a genuine fear that polarization of media consumption may lead to unwanted social fragmentation or 'balkanization' of the public, which contrasts with the traditional republican ideal of a large and heterogeneous public sphere." (Mouffe 2000 cited by Karppinen 2007a, 15-16)

The concept has also been traditionally debated in the context of concentration of media ownership and control, number of media owners and outlets; as well as the discourse on "minority media". It is related to the diversity/pluralism as a value. In this thesis, media pluralism as a value is also linked to the size of the market. While the media diversity and minority media have been analyzed in various comparative reports, there is very little emphasis on the size of the media market. The specific needs and risks of "the small and tiny market" have not been taken into consideration.

As Gillian Doyle has noted:

"Large media markets can support many media suppliers and the scale of their audiences will be sufficient to encourage strategies of audience segmentation through which many "minorities" will be supplied with specialized output (although affluent minorities and interest groups will fare best...) ... By contrast, the total resources available for media provision in a small market may be less than those available for even minority in a large market. ... For small markets, a particular concern is the availability of resources to support indigenous as opposed to less expensive "imported" content. Ironically, this may lead to choice between diversity amongst suppliers and diversity of content" (Doyle 2002, 17).

Hence, in the context of small market, the question – would vaster diversity be preferable and a value always to be achieved – is particularly relevant. Factors defining 'small' are outlined by Robert C. Picard (2011, 49) – population size, financial resources in GDP, advertising expenditure, number of media outlets and channels on the market, and media organizations' operating revenues – fully apply to Estonia. The population clearly falls below the margin of 1.5 million defining 'small', as suggested by Dana Ott (2000, cited in Lowe & Nissen 2011, 12) – 1.3 million – and is furthermore split between lingual groups (some 940,000 Estonians, 330,000 Russians, and 68,000 other⁹) making the target audi-

⁹ Data of 2017 by the government agency Statistics Estonia.

ences even smaller. The Russophone audience has full access to media originating from Russia, providing diverse output in all genres. Under these circumstances, the employers in the media sector enjoy an oligopoly towards journalists.

In addition, while the media pluralism policy has been typically focused on the mere availability of information resources, the debate has now been focused more on public engagement (Gibbons 2015). Gibbons critically points out the need to revisit the pluralism concept:

“Pluralism is regarded as desirable because it is a condition – albeit one of many – for effective democratic functioning, because it helps to reduce obstacles to having a wide range of information resources for democratic consideration. But policy measures usually stop short of encompassing the way that those resources are to be used, even though the underlying assumption is that it is desirable that they will in fact be deployed to the benefit of democratic understanding and decision making” (Gibbons 2015, 1383).

This approach towards active engagement is relevant in the context of this thesis, as his approach (the concept of active pluralism) focuses on wide range of actors. The active pluralism is also linked to the concept of exposure diversity (Helberger & Burri 2015) – the idea which insists on content grasping the attention of potential users. In the media, the competition for attaining attention is growing rapidly. The critical viewpoint here propounds that consumers’ sovereignty and the actual choices depend not only on their level of media literacy and competencies, but also on whose messages are algorithmically displayed by the internet search engines. The concept of exposure diversity is linked to the changing role of the public service media towards the “public service navigator”.

Diversity and access as values have been also challenged while the telecommunication system, including the internet, has become a more material player. Simultaneously, diversity may have a controversial effect: in a content-saturated society there is a growing problem of fragmentation (see Karppinen 2013).

Also, the development of social media has challenged the concept of diversity which has always been an underlying principle in media policy making. “Social media have brought about a seemingly infinite number of sources and content by lowering the barriers to participation in the fields of media and communications” (Aslama Horowitz & Napoli 2014, 209).

In this thesis, the public engagement approach as a concept supports the media literacy approach as one increasingly influential factor that plays important role in actor-based media policy implementation.

The next value – *autonomy* – is in this thesis closely related to the discussion about the accountability of the news media and the role of professional journalists’ community and autonomy, although informed and media-literate public is also an important factor that supports autonomy as a value in democratic society (Harro-Loit & Loit 2014 – Entry 2).

In addition to these core values, there are a bundle of sub-values and desirable action principles. Some of these are expanded in Entry 4 (Loit & Harro-

Loit 2012, 91), such as protection of sources, right of reply, presumption of innocence, and protection of honour (human dignity). These principles are universal in a way that several media related regulations are designed to protect these values and implementation practices carried out by the administrators and state).

The main debate here, therefore, is not over *what are* the core values of media policy in democratic western countries, but rather *how to achieve* these values and *who will gain from* them (and *on whose account*).

The question how to achieve certain values is traditionally linked to regulations: the legal regulations and the self-regulatory mechanisms of the media. Especially in the 1980s and 1990s, the dominant issue was liberalizing the broadcasting regulations. Differences in regulation between different countries set the frame for the media policy, therefore the overview on legal regulation and self-regulatory mechanisms is always mandatory, but also this thesis includes the description of media regulation in Estonia.

All the values mentioned before are also related to each other. For example, the right to receive information means that citizens need to receive a diverse view but, in the era of information overload, their right also to get accurate and trustful information depends on media regulation, public broadcasting and their own media literacy level. In society where numerous institutions and actors currently compete for attention, the information overload is an increasing problem and the news media is struggling for its income, the content producers' autonomy becomes increasingly complicated value to achieve.

Altogether, the question of how to achieve the above-mentioned values is complicated, as the values inevitable for the democratic society need to have the same meaning for all different actors/stakeholders in the society. Furthermore, while *the freedom of expression* and *free access to information and ideas* are, in general, clear values, *autonomy* is far more complicated to comprehend and achieve. Yet, *pluralism/diversity* may connote even unfavourably in a democratic society if construed uncritically.

2.2 Actor/stakeholder-approach in the media governance analysis

As said in the introduction, in this thesis the analytical approach is based on the actor-approach. The main difference between these two categories – actors and stakeholders – is that they have *diverse* interests.

Hilde Van den Bulck wrote:

"... Interestingly, the category of stakeholders does not entirely overlap with that of policy actors. Certain stakeholders with distinct interest in certain outcome may not actually take part in the policy process (e.g. audience members), whereas policy actors with no explicit stake can considerably influence the outcome of the process (e.g. academics, civil servants). Within the broad category of stakeholders, the core informants are the most-involved actors who directly influence the formation and execution of policy decisions. Stakeholders are identified on the basis of who they

are/represent /belong to, on the basis of their attitude towards the policy issue and of the main logic they adhere to.”

(Hilde Van den Bulck 2012 pp. 219–220)

Löblich and Plaff-Rüdiger (2012) note that it is important to distinguish the aim to study the relations among media policy actors (e.g. how the relations are established, how the relations change, how do the actors use the relations to grapple with existing regulations) and mapping the relevant actors (their interests, motives and ideas). Hence, the meaning of actors is more general.

I shall use this broader actor-approach in the theoretical discussions but, in the case certain stakeholders are described (journalists, media owners, members of parliament, etc.), they should be considered both as the actors and the stakeholders. Several researchers have employed investigating the actors in the policy implementation studies without explicitly defining the involved partakers as “actors”. For example, Hannu Nieminen (2009) evaluated the role of public interest in policymaking by scrutinizing the interaction of various players in forming the media-political paradigm. Implementation of media policy occurs in realizing of players’ interests.

The first task in policy analysis is to map the actors or actor groups. The basic question stands: how to systematize various actors. As mentioned, the most significant would be their level – from global to local ones. Also, there is a difference between official and unofficial policy actors (Kirkpatrick 2013). Ginosar (2013, 367) provides a model of multilevel governance: he distinguishes between the state, public and private actors.

In the context of the present study – the focus is on policy implementation and monitoring – it is not so important to study the relations between different actors, but rather distinguish “the speaking and voiceless actors”. As Kirkpatrick says: “...policy is not the product of policymaking institutions but rather an order of discourse structuring what can and cannot be said as well as **who has the power to speak**” (Kirkpatrick 2013, 637 – emphasis in bold added).

From this perspective, the content producers (editors and journalists) seem to have the loudest voice. Even, after the news media has lost its monopoly in disseminating the news.

Hence, while mapping the actors according to their ability to “speak off”, one can say that there are the content producers and users (both professional and lay) and the disseminators.

This approach is useful when the distribution of accountability and responsibility is discussed, for example, who is legally responsible for users’ comments added to news media pieces. For instance, *Delfi*’s complaint against Estonia (dismissed in both chambers of the European Court of Human Rights, in 2013 and 2015) caused claims that imposing liability on websites for user-generated comments would “result in real challenges for freedom of expression, anonymity online, and innovation in Europe” (Access Now 2015). From the academic viewpoint, especially in Estonia, Estonia has established rules which make a media organization liable for the users’ comments that are added to the journalistic pieces in the publisher’s offer, since part of its business plan does not represent a disproportionate infringement of the freedom of speech but,

rather, enables it to cleanse the forum for sound discussion and thus avoids unlawful comments (Nõmper & Käerdi 2015). Nowadays people tend to post comments under registered usernames and the offensive comments are taken down at the earliest possible instant. (Loit & Harro-Loit 2017 – Addendum A1).

The approach of content producers, users and disseminators is instrumental when analyzing the extent of values supported (or not) by the standing policies and regulation. For example, would the state rather prioritize the access to information or deflecting the content providers (producers) from serving the commercial interests to the public remit? Since the time the media lost its monopoly on news, the border between content producers and users has blurred.

Influence and power are important “classification” variables as well, e.g., the parliament, the ministry of culture, the law court, but also different media organizations – certainly appear to be influential actors.

The fourth possibility is to sort the actors according to their role on the passive–active scale. The activity could be interpreted as interventionalism or just involvement in media performance. However, in the context of this thesis, the concept of media education and public media critique would be considered as the variables influencing the activities within media governance.

The following schema, viewable in Loit & Harro-Loit (2012 – Entry 4), presents the main actors who influence media policy in Estonia: interest groups, institutions, and organisations. The main idea of the schema is that actors and ‘themes’ (normative domains) of media policy are not equally ‘active’. In some normative domains, the implementation of existing laws and regulatory mechanisms is an ongoing process, while in other areas few norms are rarely (or not at all) implemented in practice (Figure 1).

The schema embraces three types of elements: the actors of policy formulation and implementation (groups, organisations, or institutions, like the Ministry of Culture, the law courts, the lay public, journalists, etc.), marked with dotted lines, elliptical, and circular shapes as an area; media types and formats (e.g. the printed press, online, advertising, and political advertising), marked by black circles; and the themes or normative domains (e.g. the right of reply, hatred speech, etc.), marked by grey circles. The fields marked with a dotted line indicate the areas where the group, organisation, or institution is most active. The Y axis is about implementation activity (the upper part of the axis marks higher activity). The X axis designates the extent of legal coverage of particular themes (or normative domains) by laws and other statutory rules, including codes of ethics (the left part of the X axis).

Accordingly, sector 1 (top right) depicts both detailed legislation and active interpretation/implementation and monitoring of the rules. Sector 2 (bottom right) presents the domains for which legal norms exist, but where surveillance is weak, non-existent, or has no impact on the media’s performance.

Sector 3 (bottom left) represents the spheres for which legal regulation is slender and so is the interpretation. Finally, sector 4 (top left) comprises the sphere of self-regulation and the forces acting within this framework. There are few ‘state’ regulations in this sector, but the codes of professional conduct in-

clude various normative domains. The implementation activity in this sector is high because self-regulatory bodies deal with many cases, and public discussion takes place concerning a variety of issues regarding media policy (for instance in relation to public broadcasting programmes and public communication ethics or media criticism).

The 'actors' can be particular organisations, associations, or lay members in specific roles. The general public is also included as it can influence media policy: as an information source (e.g. bloggers), a plaintiff taking a defamation case to court, or writing a complaint to press council. Without complaints, there would be no interpretation of laws and norms. A single case, a complaint, or a blogger has little or no impact on media policy formulation, but in such a small society as Estonia the cumulative effect should be taken into consideration.

The schema does not refer to absolute measurable indices. The number of cases has been reckoned along with their significance. In several spheres, special laws exist or general laws cover most of the sphere, but the media has been touched upon by some isolated rulings, often constituting no precedent.

This schema provides a standby tool for assessing and discussing the role of policy players at any time. The standing of particular players, stakeholders or areas depends on the context and the evaluator's point of view and thus can comparatively vary even within a certain moment of time. The schema has been presented and tested in Russian, at the OSCE master-class seminar in Ashgabat, Turkmenistan, in May 2016.

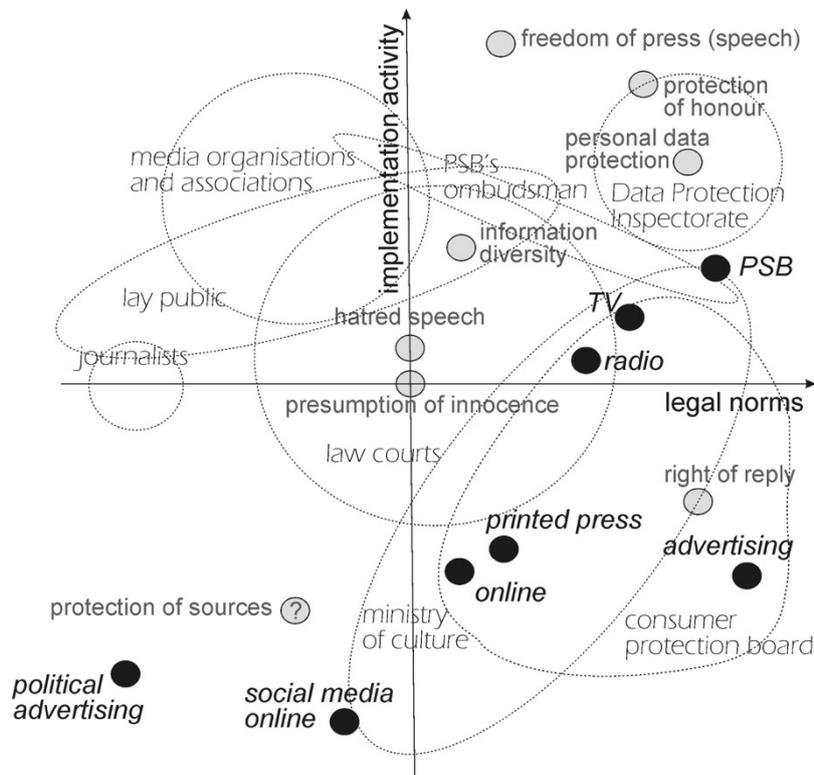


FIGURE 1 Mapping Estonian media policy.
Source: Loit & Harro-Loit, 2012, p 91, slightly modified.

Such mapping of the actors is essential, because new technology has been broadening the scope and range of policy actors and entry of new actors impacts the performance of the media market. For instance, the telecommunication companies entering the television market (which for a long period was not a case in Estonia) provide extra on-demand services in the cable or IPTV networks, including video rental, recording, catch-up TV, etc.

For the media consumers, the diversity of choice upgrades the state of affairs, while the content producers (incl. news media) experience exigencies. Any shift even indirectly affecting the media market in terms of availability of funds would imminently threaten the volume and quality of the media content production. For instance, in Estonia, the Minister in charge of medical care has been about to introduce more stringent measures in the alcohol policy to maintain public health and fill the budget (see Loit 2016). Inter alia, this would bring about a total ban for alcohol advertising, which so far is also subjected to restrictions. Thereby, the fact that this would also affect media policy by reducing the income of television channels by 10% – which is the estimation of the drafters of the regulation – was simply abandoned, as the explanatory memorandum attached to the draft designated no measures addressing this problem. Moreover, the proposed ban would only affect broadcasters under Estonian jurisdiction, while those originating from elsewhere (but targeted to Estonia) have no liabilities regards to it (even if selling advertising in Estonia). This is charged with legal contradictions but, media-politically, it impacts on the quality of the programme the TV channels provide.

For the media policy or governance implementation analysis the description of stakeholders or actors is not sufficient, and one needs to ask further about their relations (or network – provided by Van del Bulck 2012, 225), activity or passivity, or power.

Article 2 (Harro-Loit & Loit 2014) provides analytical model that takes into consideration the question how different actors influence news media autonomy. This is one perspective that enables to focus the analysis on particular selected values – the freedom and autonomy of the media. The actor-approach can be viewed also from the audience or consumers' perspective, where the value can “change” (Van del Bulck 2012, 227-228). Also, these stakeholder or actor relations can be analyzed from the point of view of certain identity group(s) with an emphasis on representation principles.

The actor or stakeholder approach to the media policy analysis enables to reveal the relations, negotiations between the parties but also ask about the conflict or negotiations about values and principles that are negotiated about.

2.2.1 Actors, stakeholders and their activity in different stages of media governance process in Estonia

Many of the following standpoints have been established during the Mediadem project and worded in the Recommendations for media policy (Harro-Loit & Loit 2012) which has been appended among the studies presented in the current thesis (Annex 1), serving as a supportive and contextualizing subject matter.

While the Estonian national strategy of media politics has been liberal since the 1990s and the freedom of speech – and especially the freedom of the press – has been highly protected, the overall media policy of the country is highly heterogeneous. Unlike other post-soviet countries, there is no political parallelism. Economic factors are more relevant to the issue than political ones. Research findings provide evidence that Estonia has a liberal and market-oriented approach to media policy. The state does not subsidise professional journalism either directly or indirectly (e.g. via taxes).

The media content is regulated only in licensed broadcasting. The provisions concerning broadcasting (audiovisual media services under the new law, including radio), however, have been supervised randomly, except for advertising TV quotas. The position of the Minister of Culture – at the time of doing the research (2012) – Mr. Rein Lang, indicates that the government would rather abolish the licensing and restrictive programming provisions than allocate more resources for surveillance. Divergent compliance with legal provisions by some market players creates unequal competitive conditions and infringes legitimate expectations of the general public towards the channels which make use of the limited resources (broadcasting frequencies).

2.2.1.1 Individual actors

The State

In the present study, the state is handled as one of the main actors that, *inter alia*, has the most resources to monitor and scrutinize the fulfilment of rules accruing from media policy. Various state agencies perform different roles in implementing media policy. The scope of some is elsewhere than purely media, but the daily activities have direct or indirect impact on media environment, often affecting the media-political settings. While some agencies operate with due activity (e.g., the Data Protection Inspectorate), many others rather represent the “non-interventional policy”, avoiding media politically designed settlements. Paradoxically, this simultaneously brings along under- and overregulation, as indicated in Entry 5 (Harro-Loit & Loit 2011, 15): The Media Services Act lacks effective regulation on media concentration. There is only a general legal declaration in Article 32, clause 3 which has never been put into practice. On the other hand, the law contains detailed prescriptions on the programming structure not deriving from the AVMSD at all – e.g. at what time the own produced works must be scheduled in the programme, a rule designed by the members of the parliament for the sake of regulation (Art. 8, subsection 2). Therefore, all the state actors, in the context of activity in media policy execution need to be assessed separately.

In Estonia, the dimension of the “non-interventional media policy” is sensibly vast and arises from the general liberal attitude towards media and other transactions. With that, Estonia has adopted approach what Des Freedman (2014, 64) characterizes as “negative policy” or “policy silence” and “non-decision-making”. This dates to a post-Enlightenment (libertarian) conception of freedom and, according to him, means that the government intervention, if

ever necessary, would be “minimal and non-intrusive”. Media markets, institutions and individuals are left to govern themselves without meddling from outside which for policymaking bodies stands for reluctance of introducing rules and enforcing them, not to “undermine innovation or put bureaucratic restrictions on market activity” (Freedman 2014, 62) and, of course, not to endanger the freedom of speech. Several such occasions have emerged. For instance, in 1996, when the Ministry of Culture refused to discuss the supportive financial mechanisms for fostering local radios (Loit & Harro-Loit 2012, 88 – Entry 4), or in 2014, when the parliamentary committees did not uphold the request by the Newspaper Association to ban advertising in municipality gazettes leaving the issue with self-regulation (Loit 2017a, 48-49). This brings us to recognition that democracy gains only from *trustful and autonomous* news media and the state might have a policy to foster this.

An example case for verifying the previously explained matter would be the issuing of two radio licences in 2017. I was invited as an expert to the issuing commission and could closely observe the activity. The procedure contrasted with opaqueness in licence conditions setting, as well as a formal and non-qualitative assessment of applications. In consequence, the both results were objected in the court.

When under EU demand, the issuing and the supervision were transferred from the Ministry of Culture to the Technical Regulatory Authority (TRA) defined as “the independent media authority”, the media policy making was still left with the Ministry, as the superintendent ministry for the TRA (the Ministry of Economic Affairs and Communications) did not wish the policy making to be transferred. Consequently, the job is being done in two separate institutions. The licence conditions are set under unclear circumstances and the law prescribes invitation of experts only to the issuing commission in the TRA, i.e. to the very final stage of the entire process. Secondly, the TRA considers the conditions set by the Ministry inflexible (The Technical Regulatory Authority 2017) and even non-construable which necessitates narrow applicability only in a quantitative way – just assessing the promised percentage of certain programme features and, in terms of qualitative implementation, not the attainability or relevance to the public. Eventually, the members of the commission had the one and only option to vote for the applications. To large extent, it seemed that the TRA was applying a ‘technologist’ way of assessment which did not fit to media content licencing. Moreover, the representative of the Ministry suggested afterwards that setting conditions should be omitted next time (Loit 2017b). During the follow-up discussions, it occurred that monitoring of the broadcasters had been weak (Ladva 2017) which persists with similar claims from the past (Loit 2005; Jänes 2010, cited in Loit & Harro-Loit 2012, 87 – Entry 4).

The Law Court

Analogously, the oversight role is performed by the court which to large extent has broad interpretative functions. In this area, there is the highest connection with the supranational level, through the European court practices.

The law court has, however, tried to elude introducing value norms instead of applying legal rules. Making the political choices and, correspondingly, legislation stands with the legislator and not with any other state institution.¹⁰

The Supreme Court has demonstrated rather defensive attitude towards the freedom of the press, especially until the beginning of the 21st century. Since then, the quality of argumentation has been advancing in the court rulings. Truth is the value that has been discussed most of all, while the rulings of the Supreme Court indicate that truth is also the most advocated value. As defamation is not covered by the Penal Code (any more), there are no criminal procedures that could be applied against the freedom of the media. Besides, it is rather expensive to bring a lawsuit against a media organisation – there have only been about 30¹¹ media-related cases discussed in the Supreme Court since year 2000. The analysis of Estonian jurisprudence has been provided in Entry 5 (pages 23–30).

The Academia (universities)

In fact, the universities are the more intense executors of monitoring than the state (Harro-Loit, 2015). The University of Tartu with the aid of its corpus of student carries out a longitude research *Meema* (*Mina.Maailm.Meedia* [Me.World.Media]), a public opinion research which along with media consumption patterns studies public values and identities.¹² Also, several international comparative research projects have been carried out, e.g., *Mediadem* and *MediaAct*, from which some studies have been included in this thesis. The data collected by academia in Estonia is often sporadic and not comprehensive in terms of regularity and span, but provides a general picture.

Moreover, in Estonia, the professional culture of journalism is protected by tradition: a history of reading newspapers, and professional education. As indicated, the latter includes media research. Professional education and research have a crucial influence on journalistic culture. Estonian professional education in journalism dates to 1954. Since then, the Estonian approach to journalistic education has been developed in the academic environment. However, better cooperation and dialogue between educators of journalism and representatives of the mass media and the public is needed, as there is some tension between the practice of the (market-led) journalistic institutions and public expectations about the functions of ‘good journalism’.

Content Industry

The small market favours oligopoly of professional media channels: the press market is predominantly shaped by two media groups: *Eesti Meedia* and *Eks-*

¹⁰ This is highlighted from the Supreme Court decision 3-4-1-11-16 (16 May 2017) upon evaluating constitutionality of the legal provision allowing the same person to simultaneously prosecute as a member of the parliament and of a municipal council.

¹¹ Last time counted for Entry 5 (2011), as it can be done only by manual sorting, case by case.

¹² Last data collection in 2014 and the related book in 2017 – P. Vihalemm et al. (Eds). *Eesti ühiskond kiirenevas ajas: Uuringu "Mina. Maailm. Meedia" 2002–2014 tulemused* [Estonian society in accelerating time: Results of the study *Me. World. Media* in 2002–2014], Tartu: Tartu Ülikooli Kirjastus.

press Grupp. The former possesses 5 of the 25 local newspapers. There are also two major groups that dominate the radio market and another two that dominate the television market. The number of local radio stations is small (six), and local television stations cannot emerge because of technical aspects of the state digital TV policy. Prime news flows are produced by a few media organisations, and consequently the number of people who decide upon news content has been narrowed down.

The system of financing the public service broadcaster (PSB) is unpredictable and unsustainable, and does not fully safeguard the growing importance of production of public broadcasting content. The parliament allocates finances to the PSB annually, while the law prescribes three-year envisagement. Recent years' budgets have enabled the PSB to fulfil short-term tasks, but long-term tasks remain poorly performed. Political influence on the PSB is relatively small, although it has increased within the latest years. In 2017, a high government official was appointed to the council of the public broadcaster. The appointed person is employed as a chancellor in the Ministry of Culture (the second highest official after the Minister). The law prohibits appointing ministers to the council but says nothing about state executive officials.

Owners, managers, journalists

The ability of the journalists' trade union to carry out its social mission is weak, and journalists are rather marginalised as a group of media policy actors. Editors-in-chief are better represented via the Estonian Newspaper Association and its self-regulatory body, the Press Council. In 1990, the Estonian Newspaper Association, in reality a publishers' lobbying group, established itself as a broad-scope media organization addressing the interests of the owners, editors and the journalists. One of its intentions was to marginalize the Journalists' Union (Association) which has been existence since 1919 but was struggling with its Soviet past. On many occasions, the journalists have not been encouraged to join the union.

The number of professional journalists has fallen from about 1,200 in 2004 to about 900 in 2012. This might become one of the most critical factors working against the independent performance of the media.

The small job market together with the liberal approach to media policy and the weakness of the trade union of journalists might endanger professional journalism on both the institutional and individual level. At the same time, economic pressure from marketing communication is growing. It is unequal towards different channels and formats of journalism. Magazines, some television channels and soft news producers at daily newspapers experience more pressure than journalists who work at hard news departments. Estonian professional journalists do not form a homogenous community with well-established professional ideology. The borders between the news media, infotainment and advertorials (content marketing) are increasingly blurring and the audience needs special competencies to distinguish between news and marketing messages. Thus, inside the industry, the goals and identities of journalists, owners, top

managers, chief editors, department heads, advertising and marketing administrators all carry controversial interests.

In this respect, the case of the daily *Postimees*, taken place in late March 2017 is illuminating. A group of department chiefs at *Postimees* wrote a memo to the owner and the general manager (Pärli 2017). They expressed concern against the deepening practices by the general management to dictate about whom to write and with what tonality. The journalists said they did not recall having such pressure directed at them, which was never the case under the Norwegian owners. The latter rather avoided addressing content matters, fully leaving it with the local management (Lauk 2008, 202).

The marketing department was accused of pushing promotion stories both about clients and the other ventures of the Postimees Group which had gone through a major merger of all its affiliations into a solid media house (television, radio, local papers). Experts say the journalists might not write these stories (Kala & Koorberg 2017).

The draft of the letter leaked to the media and ERR published it. The follow-up has not emerged and the related department heads are rather keeping silent. The contents director and the chief editor said when ERR came public with the item that the conflict had been resolved. The letter itself indicates that the desire for professional autonomy and integrity among journalists has still survived.

Lay members, commentators, bloggers

The biggest barrier to the promotion of media literacy and the implementation of the concept of the use of communications skills is the lack of political decisions concerning citizen education on how to behave in the information society.

Media criticism is largely missing and the general public rather keeps quiet on media quality or just indicates spelling mistakes in social media threads. People often address this topic also in letters to the editor, as the President of Ekspress Group points out (Luik 2015).

The reluctance of the media industry towards involving the general public (the lay members) in reflection on media issues also manifested in abandoning the original press council (*Avaliku Sõna Nõukogu*, ASN) in 2002 and establishing a new one as an affiliate of the Newspaper Association. The former was composed of representatives of various member organisations, including “lay members” as media educators, consumer protectors, the clergy, and association of civic organizations. The new press council (*Pressinõukogu*, PN) predominantly consists of chief editors and rather reflects their view on media self-regulation. However, this duality also pushes more deliberate adjudications. And, as “variance builds enrichment”, this also adds to the media-critical discourse, given that in Estonia the instrumentarium at large for media accountability is poor. However, the poll conducted under the MediaACT project revealed that the dual system of press councils largely produces misapprehension – see Studies 6, 5, & 2, or Loit & Harro-Loit (2013).

The levels of effort applied by different actors to the implementation of media policy appear to be unequal. Politicians and state officials are passive actors, rather preferring not to interfere. The influence of the owners of private media is indirect and not transparent. The influence of editors is ambiguous, and the influence of journalists on the media policy is marginalised. Public criticism of the media is marginal. On the other hand, the court system operates on a clear value-oriented basis, and the self-regulatory system with its two bodies has provided a forum for a relatively wide discourse on relevant moral dilemmas and good journalistic conduct. There is a continuous value conflict between the protection of privacy and the public need for information, which is also reflected in the cases dealt with by the Data Protection Inspectorate.

Media policy actors are never (fully) autonomous; therefore, the agreement on values as well as implementation of practices would be valuable. All these actors perform in certain context: regulatory and cultural. In this thesis, the regulatory context is described via the discourse of media and information laws and related court practice in Estonia.

As to culture, the thesis focuses on journalism culture. It is certainly possible to focus on political culture that is most common in various media-policy studies (e.g., Hallin & Mancini 2004). Still in this thesis, the approach of analysis is linked to journalism studies and journalism culture. In other words, this thesis argues that it will be necessary to consider journalism culture as one factor that may reveal universal and unique changes in the media in different countries over time.

3 METHODOLOGIES OF MEDIA GOVERNANCE ANALYSIS: COLLECTION OF DATA, ANALYSIS AND COMPARABILITY OF THE COUNTRIES

In 2012, Puppis noted that methods of communication policy research were rarely discussed (2012, 5). Also, Herzog and Ali have pointed out: "Media and communications policy research, by contrast, suffers from a lack of methodological reflection and there is a comparatively small amount of literature dealing with the methods of the field..." (2015, 39).

The methodological challenges by media policy analysis appear to be two-dimensional. Primarily, the question stands with collecting input data, predominantly about media performance, consumption, or market. Secondly, it is about the possibilities of various data compilation methods: their options, validity and cost.

There are data, which congregate automatically, resulting from technology. Second, there are data, which certain institutions and organizations collect regularly (annually, quarterly, monthly) and, thus, enable analysis of the dynamics of the researched object. Third, single surveys exist with data collected on particular aims.

In the two latter cases, the methodology been used determines the possibilities for data interpretation. Also, with these two, we need to keep in mind who collects the data, who owns it and on what terms it can be used for analyzing media governance.

Hence, when asking the question of to what extent can media governance be monitored, the aim, regularity and availability of the particular data collection needs to be assessed. Also, arising from the actor-approach of this thesis, we need to determine the prime owner, manager and analyst of the data – would it be the state, commercial entities, universities, think-tanks, independent authorities, or else. The analysis depends on who defines the problem.

Such a critical review about data accessibility would enable more effective approach towards comparative research which this thesis would address individually in a single subchapter below.

Regarding the methods, Herzog and Ali (2015, 40) – based on various authors – summarize the following:

“When methods are acknowledged, it is often only in passing reference to what Karppinen and Moe (2012) call ‘document analysis’ but to which we could add ‘in-depth’ or ‘close’ readings, ‘discourse analysis’ or ‘textual analysis’ (Ali 2013, 47; see also Antaki et al. 2002). These tend to reflect a macro (e.g., national media system) or a meso focus (e.g., journalistic norms and institutions) (Potschka 2012, 36–37). There is an understandable predisposition to using documents as the primary source for critical assessments of communication and media policy, with many fine research projects taking as both their points of departure and arrival the hermeneutic interrogation of policy documents. Such predisposition, however, omits the micro level of individual actors and their impact on policy-making, leaving Reinard and Ortiz to suggest a degree of ‘methodological parochialism’ in communication law and policy (2005, 621). ... ‘[Q]ualitative document analysis and qualitative interviews with experts are among the most common methods in communication policy research’ (Just & Puppis 2012, 24).

What this summary of ‘document analysis’ lacks, however, is a robust methodological explanation and reflexivity of the genesis of the documents. It is essential to distinguish between *sources* and *documents*. Sources include research literature. Analysis by Karppinen and Moe (2012, 181) raises an issue, which would be relevant to consider regarding the empirical data collection in this thesis: “Documents are written by people who are active participants in the process they describe”. It means that the context of producing a document becomes relevant which, in turn, complicates construing the documents in the case of comparative research.

Legal acts differ from general documents and can be dominating, as occurred in the European project “Media Pluralism Monitoring” (MPM), also observed in this thesis (see below – Section 3.2).

1. **Legal acts** are interpreted through court adjudications and any other procedural decision (by a body conducting extra-judicial proceedings, e.g., the Data Protection Inspectorate) which, in the case of researching the media and communication policies, sets a wide competency demand on the researchers. For example, in the MPM research on media pluralism (Loit & Harro-Loit 2017 – Addendum A1), needed the researcher(s) to fully apprehend the gender policy issues, as well as the details of competition law, copyright, media self-regulation and can dig into data held by either the Commercial Register or the Register of Securities. This thesis widely applies document analysis, which has been divided into three subcategories.

- Legislation directly or indirectly applied to the media. Seemingly, this appears to be the most comparable for international comparative research. But as occurred in submitting the data for the MPM project, in the case of Estonia it is quite hard to explain, in the international context, the significance of absence of the general media law or the wide-scope Media Authority (no specific regulation for the media other than broadcasting). Thus, if some aspect has not been traditionally regulated by law (in the case of Estonia, due to being embedded in cultural tradition or deriving from the smallness of the media system or market and, therefore, is

not rational), putting in the international context brings on doubts about existing safeguards for media freedom.

- Implication analysis is based on court adjudications or those by extra-judicial bodies or provided within self-regulation. These kinds of sources can be well processed by text and discourse analysis. This category also comprises sources, like strategy documents and annual reports.
- Statistics, databases, registers. The prime questions are whether this data is collected in the particular country and whether the data are publicly accessible, either for free or for a fee. Further questions are whether these data are continuously updated and by whom. The thesis includes four reports (Loit & Harro-Loit 2010; Loit & Siibak 2013; Loit, Lauk & Harro-Loit 2018 – Entries 1, 6 & 7; Loit & Harro-Loit 2017 – Addendum A1) including data from various systemized sources, listed below in this section.

The overall MPM report (Brogi et al. 2017) provides comparative data about what data are available in particular countries.

As for usable **sources**, we can use articles and notices published in the print media or online, parliamentary verbatim reports and talk shows (TV, radio). In addition to these frequent, but irregular sources, personal interviews can also be used.

Of the various data collection methods, the qualitative interview requires particular efforts. Two critical questions require attention: who would be the respondent; and representing what institution. Through the interviews one can follow the perception by the interviewee of certain practices or ideas.

Interviews for analyzing media governance usually are carried out by representatives of some stakeholders or people who: are representing some actors specifically; are best informed about the problem or area; actually decide and/or are most influential in a certain field.

In a small media system, as in Estonia, the number of stakeholders and/or actors is often very small. Therefore, one more important factor concerning the respondents would involve the absence of the interviewee's consent. There are many media owners, politicians and experts not willing to provide a comment or give a longer interview. Concurrently, there are experts who by their position ought to be profoundly informed about the issues in question, but for some reason are not. Therefore, the researcher faces an ethical dilemma whether to be publicly critical towards the source. On the one hand, the incompetent official source would serve as information not to be withheld in assessing media governance. On the other hand, when the primary intent of interviewing was to seek information and not to evaluate the source, the ethical dilemma reveals in releasing the outcome of the interview.

“Furthermore, it is vital for scholars to convince their informants that they would receive a fair treatment and that high ethical research standards apply.”

(Herzog and Ali, 2015, 44).

Thereupon, when interviewing various actors on media policy, the question stands with their autonomy. Paradoxically, when studying journalists' autonomy with interviews, the respondent journalists need to be autonomous in

the first place to determine to whom and about what they would speak. Solely, the fact that they need to get a permit for the conversation from their superiors indicates the lack of autonomy.

The same applies on all possible observations. For instance, the autonomy can also be studied with the example of staff meetings (e.g., Tammeorg 2012). However, for that, one needs authorization. Tartu University's Department of Journalism and Communication (currently, the Institute of Social Studies) has, for a long period of time, interviewed acting and retired journalists and collected their memoirs (published in three volumes of books), which now can be used for meta-analysis. Lastly, documenting the activities of media organisations – for instance, the bachelor's thesis by Neeme Korv (2000) now appears to be the only (and thus unique) study to document, in detail, the transfer of the headquarters of the national daily Postimees from Tartu to Tallinn at the end of the 20th century.

This thesis used several data collection methods:

- document analysis (e.g., laws, court decisions; codes of ethics, etc.)
- analysis of media texts (for instance, the number of journalists can be found out from the public directories of the editorial staff; articles covering journalism provide information about affairs around editorial offices and journalists in particular)
- (in-depth) interviews with variety of experts from various fields
- standardized questionnaires
- database analysis (the Commercial Register, statistics, annual reports)
- meta-analysis of various studies
- processing of research data collected by market research agencies, like Kantar Emor and others
- individual special research (e.g., radio programme monitoring for establishing its compliance with the licence conditions – the officiation of which has also been delineated in this thesis) wherewith the cost stands crucial.

The variety of sources in Estonia can be categorized in two basic forms:

- one-time research on specific topics, both domestic and international (comparative) – the MDM, Mediadem, MediaACT, students' works, other.
- regular monitoring (enabling to track the dynamics of a process, but also providing basic data for single surveys) – several statistical databases, media market surveys (advertising market volumes, shares and reaches, surveillance of the daily volume of advertising on television, etc.)

The Internet search, of course, provides additional options for assorting available data not been arranged in solid databases.

These two forms acquire relevance when conducting international comparative research, for instance, as in the MDM report (Entry 1) included in this thesis, or in the MPM report appended (Addendum A1). The knowledge of academic research topics (including bachelors', masters' and doctoral theses or

even seminar papers) is of substantial significance, as state level data collection in many fields is simply missing.

For the articles included in this thesis, data collection has been crucial – whether the data already existed or needed to be urgently gathered. There are data which are not amassed in Estonia, for instance, no regular surveillance over compliance with (radio or television) licence conditions or, moreover, the law obligations is conducted and this, in turn, disenables to implement media policy in practice.

In some instances, the state of data collection stands better than in other countries with the communist past (e.g., the commercial register online). The key factor is also who possesses data about media performance and what are the prospects for their availability. In other words: who would be the ‘monitoring actors’ for the media policy?

Therefore, we need to critically observe what data does the state have and on what level – would it be statistics by authorities or solely by the academia? In this context, the role of educational and research institutions is extremely relevant, as well as its interaction with the roles of research agencies or databases and their overall accessibility by the public. For instance, for media research in the University of Tartu, the Kantar Emor sells the data with an embargo on redistribution. Analyses upon these data can be freely done but the public (including the state) does not make use of much which constitutes a problem.

3.1 Positioning the media policy of Estonia in the context of the cross-national research and the related methodological challenges

As all the publications included in this thesis are part of cross-national comparative research, it would be inherent to spotlight what kind of a comparison it is.

Primarily, there are numerous research and models that deal with comparing **media systems**. Such emphasis might be linked to the high popularity in approach provided by Daniel C. Hallin and Paolo Mancini in their book “Comparing Media Systems” (2004), but even more in critical discussions inspired by this book, especially concerning the East and Central European Countries. (e.g., Dobek-Ostrowska, et al. (Eds). “Comparative Media Systems. European and Global Perspectives”, 2010). Hallin and Mancini (2004) proposed four dimensions enabling to compare media performance in different countries:

- 1) The development of media markets
- 2) Political parallelism
- 3) The development of journalistic professionalism
- 4) The degree and nature of state intervention in the media system.

The research integrated in this thesis also comparatively analyzes three aforementioned factors: development of media markets; development of journalistic profession and the degree and nature of intervention of the state.

Political parallelism serves as a factor regards to what it is hard to find reference in Estonia. In addition to the abovementioned, media culture represents a significant factor which time to time has been tried to comprehend. At the same time, media culture cannot always be comparable, as, like said above, universal change and development can take place at different time in various media systems (countries). Or, we can say, various media cultures contain both unique and universal constituents. Investigating the comparability in this would need applying the diachronic analysis of media cultures. This is a little explored territory in media governance (Harro-Loit 2014).

However, the comparative research, especially in the field of media governance, has several virtues of what some are very practical. As Esser (2013, 113) has pointed out:

Taking a comparative perspective also draws our attention to those macro-level structures that **are taken for granted within our own system and never critically reflected upon**. It thus helps to render visible the specific identity of mass communication arrangements within a given system. Another advantage of comparative analysis lies in the wealth of **practical knowledge and experience it offers**. As we gain access to **a wide range of alternative options and problem solutions, comparative research can show us ways that others have found out of dilemmas similar to our own—and their solutions may be borrowed and adapted to local conditions**. Most important for us as scholars is the fact that comparative analysis **expands the existing data base**, and by doing so, it simplifies generalization and contextualization of theories. (emphases in bold added).

The research constituting the current thesis through comparative data reveals the significance of the capital of a *universitas* accumulated during the years of consistent data collection. In addition, the research indicated that in the field of access to information Estonia is positioned among the successful lot of Western democracies, while as to journalists' autonomy it fit in the post-communist model.

Simultaneously, in the case of comparative research, it is critical to have data on macro-level (systems, cultures, markets, or their sub-elements), because if you need to start from the scratch, you never reach the real comparison.

The "Mapping Digital Media" research, on the other hand, showed that, in certain cases (especially with digital media), the data would need frequent upgrading while compiling the report. For instance, just after releasing the report in 2013, the then possessions of Eesti Meedia by the Norwegian Scibsted were sold to the new Estonian owner, which totally changed the state of affairs. When under the Norwegian ownership, the problem was that they trusted the local managers with their editorial independence too much and did not want to get involved (Lauk 2008, 202), which brought along non-transparency in the owners' policy-settings. Now, under Estonian ownership, the exploited managerial approaches have caused discontent among the journalistic staff leading to a collective letter against the top-managerial practices of guiding the paper's content towards certain topics, and tonality for the coverage (2017).

Another example of a major shift in this context was the change in the broadcasting (AV-content) regulation model. The hitherto functions of the Ministry of Culture were divided between two institutions (the Ministry, and the Technical Regulatory Authority as the 'independent regulator'), but a clash four years later with the issuing of radio licences revealed that the model was not working and the media policy did not address all relevant aspects of the entire procedure. Earlier to that, all evaluations and suggestions indicated that it would be judicious to introduce the institution of an independent regulator (Loit & Harro-Loit 2012, 88 – Study 4). Both cases have been disclosed in more detail in section 2.2.1.1 (subsections 'The State' and 'Owners, managers, journalists').

The focal issue with any research would be comparability. Esser propounds: "A fundamental problem in comparative studies, as trivial as it may sound, is comparability. If we have drawn a media sample in system A, what are the equivalent media outlets in systems B, C and D?" (Esser 2013, 116).

Finally, he suggests that

"systems must be broken down into indicator-like units of analysis; an example of such units may be the *supply* and *consumption* of information programs in broadcast systems. These units *program supply* and *program consumption* must be conceptualized theoretically and measured empirically in equivalent ways in order for entire broadcast systems to be compared along these dimensions (e.g., by contrasting *information-rich* and *information-poor* systems). (Esser 2013, 117).

These indicator-like units are and ought to be discussed, as several analyses within this thesis include indicators functioning well and widen the options for interpreting the media policy. Concurrently, there are indicators predominantly inflicting confusion, as the degree of generalization is low (may fit into the context of the particular country but misleads in the context of another). The best example for the critical analysis of indicators would be the Media Pluralism Monitor (MPM) the aim of which is to provide an ample basis of risk indicators.

Some countries (e.g. Germany) have developed legal obligations for various organizations and institutions to report about their ownership, personnel and other statistics. Even more important: the law makes it obligatory to make this information publicly accessible. The state here is the active media policy actor. This constitutes regular data collection (monitoring) enabling to diachronically track the changes.

The following question regards to monitoring is linked to the access and transparency: namely who owns the collected data and how can the data be accessed (e.g., for free vs. for pay – research by private agencies). Therefore, the critical question lies: what data from what sources and how frequently is collected by whom?

In the case of a university collecting data, after some time the data might become publicly accessible. Still, this depends not only on whether the country has research archives, but also if the data of research project is given over to this archive and if use of the the archive is accessible. Universities usually also conduct analysis on collected data which are publicly available. However, the sub-

stance of fact collecting in these cases depends on the particular study interests of researchers, who are often limited to specific scope and timeframe. Besides, universities ought to be considered as important actors regarding the diachronic monitoring capabilities.

The third method is the special collection of data. This may be a one-time data compilation or a one-time data analysis.

Thus, examining monitoring, we need to raise a question, about what indicators to collect data and **in what frequency** (different indicators evolve **at different pace**), as well as which actor is ought to be doing this (or already does).

3.2 Indicators as a tool for analyzing media governance and the performance of media system

The Media Pluralism Measurement tool has been developed since 2008 by the Centre for Media Pluralism and Media Freedom (CMPF)¹³ (see Valcke et al. 2010). The tool is designed to cover four regulatory areas including several indicators. The indicators are usually combined from values and variables. I have labeled the measurement indicators here as “descriptive practices”.

Each indicator includes questions and optional answers to map the level of pluralism in the particular country. Each question also has a possibility that there is no evidence-based information on this subject at all.

From the monitoring standpoint, the essence of “missing information” is crucial, even though often left without of attention by some analysts. For instance, the MPM project would gain out of assessing the information availability country-by-country to establish the general monitorability regards the examined areas or specific variables (on the scale of *publicly available / privately available (for pay) / not available*) – as the fifth area within the project, providing the cross-European comparative data (similarly to the MPM output maps, as provided for illustration in Figure 2).

¹³ Established as a unit in 2011, at the European University Institute in Florence, Italy.

BASIC PROTECTION

The Basic protection indicators represent the regulatory backbone of the media sector in every contemporary democracy.

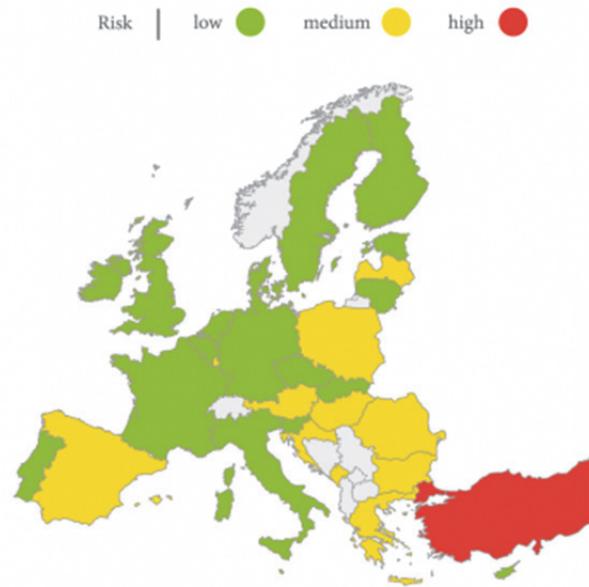


FIGURE 2 MPM’s comparative map of monitored European countries on basic protection (and risks) in media pluralism.

Source: *Media Pluralism Monitor 2016 – Results*,
<http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/>

The “missing information” can be defined as where government has no interest in or resources for monitoring. It appears in some areas that the monitoring system would be proportionally too expensive to execute, especially if there is no actual political will to impose regulation on particular areas. Concurrently, missing information for example about media ownership could create a lot of risks being highlighted by critical media economy scholars (see Hardy, 2014).

In addition, the MPM checklist questionnaire, supplying also references to the data sources on regulation, regulatory practices and else, could provide valuable information on who really possesses information on media performance. In the case of Estonia, a lot of information is collected and analyzed by the University of Tartu amidst the academic research during making various works (from bachelors to post-doctoral). Still, the state-run statistical data collecting would provide regular data enabling comparison and dynamics over the time. In many cases, which includes Estonia, the problem is that no such data is regularly collected and, thus, data-based policy making cannot be done. The research by the academia is sporadic within limited timeframe or repeated only over certain period of time – and this does not provide continuous view on me-

dia. Hence, the MPM project embodies a lot of critical information about the state's monitoring potential.

Another problem with the MPM methodology is that the project's universal evaluation tool for pluralism created is to uniformly cover all markets – small, medium and big ones. At the same time, pluralism constitutes a value and a principle upon which the size of the market matters a lot. Not only oligopoly in small (even tiny) markets (like Estonia and the other Baltic states) is inherent but also the extent of multiculturalism constitutes an unparalleled feature for small national states apart from large multicultural states.

Also, Karppinen (2015) has argued that media pluralism monitoring should comprise a range of universal indicators (as it has now) along with unique indicators taking account of the available data resources. In that context, it is often hard to get the latest data (upon a common absence of frequency in data collection). Recognizing this, it was surprising for the Estonian team of the MPM that the central CMPF team discarded in the 2016 report, the laborious calculations of market shares based on various sources which had not become public instantly after the end of the fiscal year. The annual reports of the companies must be submitted to the Commercial Register within six months of the end of the fiscal year. Only after that can any calculations based on these be published. In evaluating pluralism, for instance, the data to describe permanence of general trends can intelligibly originate from the most recent available sources, especially when this data collecting and release is not enforced by law.

Another peculiarity with the MPM project was that all the core calculations by countries were the sole responsibility of the central CMPF team in Florence and this was not shared with the country teams. The latter were providing input for the calculations but the calculation procedure was not disclosed. In some cases, it caused confusion, as the country teams were unable to explain the scoring (e.g., on media literacy). For this reason, the MPM narrative report has been supplemented to this thesis as an "Addendum" and not an "Entry" – it replenishes the diachronic dimension of the work but the calculation method cannot be properly expounded.

This conclusion – that the media policy is steered, shaped and applied (includes control mechanisms) by variety of stakeholders – still leads to the question how to carry out the assessment of the "health of media performance from the point of view of democracy and the control system? How to get as **reliable** information about the "health" of the media performance and information about the negotiated and targeted changes?

There are two ways to get this information:

- National states would run their monitoring mechanisms: there are actors which regularly collect information about media.
- When there is no regular information gathering and/or access to the information that may indicate the media performance, international comparative reports can be arranged.

The second approach is, nevertheless, linked to the first: in the case of there being collection and flow of current information it is to collect information for a single report.

As Karppinen (2015) finds about the MPM:

“The most valuable contribution of the MPM, and other such empirical indicators of media pluralism, is therefore not that they would objectively settle political disputes and disagreements, but on the contrary, that they stimulate new debates about the meaning of media pluralism and different threats to it.” (295)

3.3 Example-case: Compliance of a radio broadcasting licensee with the licence conditions. Methodology for radio programme monitoring

Within Mediadem, the University of Tartu (UT), conducted two monitoring projects to provide comparative factual data in addition to the claims of interviewed experts and politicians. While the interviewees express value judgments, the actual state of affairs may vary (often a lot).

For the monitoring, a methodology was used which had been employed a few times to conduct supervision at the request of the Ministry of Culture (MoC). The methodology and its implementation, at all times were made by the author of this thesis.

TABLE 1 Monitoring of radio programme content processed under the methodology described in Section 3.4.

No	Date	Station	Transmitters	For
1	28–30 January 2009	Raadio Viru	Vinni 92.5 MHz Jõhvi 100.4 MHz	MoC
2	8–10 February 2010	Raadio Paldiski	Laulasmaa 87.7 MHz	MoC
3	25–27 February 2010	Raadio Ring FM	Võru-Mõksi 101,7 MHz Tartu 104,7 MHz Pärnu 93,9 MHz Tallinn 105,8 MHz	MoC
4	12–14 May 2011	Russkoe Radio Tartu	Tartu 101,2 MHz	UT
5	23 May – 5 June 2011	Russkoe Radio Tartu	Tartu 101,2 MHz	MoC
6	3–5 November 2012	Russkoe Radio Tartu	Tartu 101,2 MHz	UT

According to the methodology, the primary activity of monitoring is the live listening to the programme simultaneously but individually by two listeners “on-watch” who make preliminary notes to classify the audio by genres. The latter depends on the particular licence conditions and may vary from one licence to another. Concurrently, the output was recorded (hourly, using *Loop Recorder Pro 2.06* to provide a time-code to the recording enabling to verify the air time), preferably from a FM-device, as the output in the online stream may vary or be delayed.

The methodology defines the classification items relevant to a case (talk, advertising, news, local coverage, cultural programming, debate). For live listeners, the classification needed to be easy and manageable within moments. Later, the more sophisticated classification was done by the analyst interpreting the listeners' notes during occasional (targeted) re-listening the recording. The analyst re-listened the talk parts of the output and those parts of the programming where the notes of the live listeners were either divergent or abstruse.

While this re-listening and interpreting, the actual airtime per programme segment was established with accuracy to the second.

As criticism to this methodology, using double manpower during the live listening can be considered overspending which directly impacts the cost of the monitoring. On the other hand, the qualitative nature of the quantitative monitoring would request more than making a distinction between talk and music. The latter can be, to large extent, made automatically, if the subscriber to the monitoring data can access and afford the technology. Still, distinguishing between the various genres (news and entertainment, etc.), especially when melded, needs proficient human examination. Employing two synchronous listeners adds validity to the results by trimming human error inaccuracies. Even then, not everything can be clearly classified. Under such circumstances, the outcome needs to be interpreted in favour of the licence-holder.

The monitoring process description and the full results can be found in the translation of the last monitoring report (Addendum A2) done for the University of Tartu within the Mediadem project, embracing the entire know-how from all the monitorings processed. This last monitoring report on Russkoe Radio Tartu noted that, during all three periods of scrutiny, the news quota was not complied with on weekends at any time. Even though highlighted in all the reports, the competent supervisory authority did not take any action on that matter.

Secondly, the report observed that the talk programme quota had closely followed as prescribed, while during the last monitoring, on Sunday, the quota did not achieve compliance.

Thirdly, all the monitorings observed that, within a local¹⁴ licence, no local programme was produced, not even partially. Also in the general news and topical flow, the items related to Tartu region were scarcely covered. The Ministry of Culture made a precept to the broadcaster to cover the topics on Tartu and its neighbourhood. A year later, the monitoring revealed that the situation had somewhat improved mainly in formal aspects – on working days there was a morning news bulletin on Tartu and an encyclopaedic section about Tartu (e.g., there is a university in Tartu). However, the report states that the coverage of Tartu had basically not increased either quantitatively or qualitatively and the few sections that had were not targeted at the local Tartu audiences.

¹⁴ The licence issued in 2009 under the Broadcasting Act as 'local' was reclassified into 'regional' in 2011 under the Media Services Act, Art 63, Subsection 4, because the new classification did not provide 'local' activity licences neither for radio nor television. At the same time, the obligations to operate the local programme still remained.

Finally, the report said that, in the terms of media policy, it has not been clearly specified if the obligation to produce original programming could be met by just relay-broadcasting a programme produced under another licence, even though by the same broadcaster.

These questions remained unanswered. The broadcaster reacted to the precepts formally without any substantial advancement. The regulator did not address several issues at all and could not enforce the requirements, largely because it had not sufficiently specified and quantified the requirements. For example, the several minutes daily broadcast about Tartu did meet the provisions stipulated by the licence. The needs of the audience (and the public remit) remained unaddressed. This indicates the state's unwillingness to resolve the media-political issues and provide a clear vision for the public remit to be embodied when a public resource (the frequencies) have been allotted.

In 2013, first, the supervision was handed over to an "independent regulator" suggested by the European Union. For a long time, it was not clear in which way the new regulator (the Technical Regulatory Authority) was performing scrutiny over the licence conditions. Soon in 2013, a new issuing of media activity licences was arranged. The Tartu licence of *Russkoe Radio Tartu* was non-transparently merged to the national licence of *Russkoe Radio* and issued to the hitherto broadcaster without any competition as there were no competing applications on the particular licence.

The issue can be summarised that the state has expressed deep unwillingness to observe what is happening in the media landscape. This conclusion can be drawn upon the fact that there is a working monitoring methodology but it has not been employed. Even when monitored, many of the findings have not been made use of. The licence conditions have been worded productively but the scrutiny about the compliance with the provisions has been largely missing. The budgetary allocations have been meagre.

This case confirms the findings of the Study 4 (Loit & Harro-Loit, 2012, 87-88) depicting the state's inability to manage the field.

4 MAIN RESULTS OF THIS THESIS

4.1 Theme I: General analysis of the Estonian media system

General analysis of the Estonian media system and media governance (from the perspective of digitalization) have been provided in the “Mapping Digital Media” report (2013 – Entry 1). The report stated that

“Estonia blazed a trail, in terms of digitization, by completing digital switch-over of television five years ahead of the originally envisaged target.

Estonians have demonstrated a keen appetite for digital media uptake. More than three-quarters of the population accesses the internet regularly, and more than half of those are active on social networking platforms. Recent surveys suggest that nearly a quarter of internet users now connect via smartphones. As for traditional media, newspaper circulations have experienced a steady rather than dramatic decline over recent years, while television and radio audiences remain relatively stable.

The press and news organizations remain in general relatively free of political influence, and although there is significant cross-media ownership and little opportunity for new entrants, digitization does not appear to have exacerbated this situation, and there remains a degree of competition and pluralism within all sectors.

This report calls for the development of media policy that will incentivize television service providers to introduce the additional digital television services that were promoted during switch-over. They also call for long-term predictable funding mechanisms to ensure that public service media, Estonian Public Broadcasting (*Eesti Rahvusringhääling*, ERR) above all, provide quality output.”

The main conclusions of the report were brought out as follows – and it stands also some five years later.

Media independence has maintained its standing over recent years. Freedom of speech is highly valued and politically protected, with the result that the reach of regulatory institutions in all sectors is limited. In the press sector, self-regulation mechanisms tend to protect media organizations from external criticism, rather than monitor and effectively sanction misconduct. Even in the cases where the law refers explicitly to media conduct rules, both government agencies and the courts tend to defer to self-regulatory mechanisms.

Digitization of the broadcasting sector has somewhat enlarged the number of television channels, leading to the emergence of several small and niche channels, distributed mostly in networks with conditional access. These niche channels, however, do not have a strict news quota obligation in accordance with the recent

The Media Services Act (which replaces the preceding Broadcasting Act). Even the digitally introduced sister channels of the two major television broadcasters either rerun the newscasts of the prime channel or just provide text-TV news slides to meet the news quotas imposed by the law. Thus, digitization has not widened the choice of current news in television.

The flourishing of online news spaces has increased the amount of news items and improved the immediacy of their publication. On the other hand, resource cuts and responses of media businesses to the demands for instant information have meant that news quality has not increased in tandem with news quantity.

While pluralism of voices has not increased in the mainstream media, the explosive expansion of social media has enabled various groups of people to share their views and tell their stories. However, people need journalistically verified stories that they can trust. There is little evidence to demonstrate that this kind of journalism has been bolstered by digitization, and some evidence to suggest that digitization has curtailed it.

As prognosticated in the report, over the next few years, it is reasonable to expect improvement in digital services added to media distribution streams. At the time of releasing of the report, the choice of digital added services was poor relative to the wide range of opportunities envisaged at the outset of digitization. This has to some extent advanced but not substantially. As was evident when publishing the report, the switch over to digital terrestrial broadcasting of television was primarily a means for obtaining further frequency resources for data communication over the air.

Increased convergence across different platforms was also to be expected, notably in the field of internet-based technologies for receiving video services using mobile devices. The larger newspaper publishers are introducing new products to be consumed using e-readers and other electronic devices. On the other hand, executives from these companies interviewed for this report did not expect a very quick transition to online consumption of newspaper content. It has been difficult to charge for online articles, without risking significant loss of readership. But it was likely that publishers would must change their practices and start charging once the number of online readers exceeds the number of paper readers. On a large scale, this has materialized.

Most of the future trends will also depend on the global economic recovery which has not been as rapid as might be expected – only in 2016-2017, has the turnover of advertising reached the levels of 2008. The small size of the Estonian media market makes development particularly vulnerable to outside influence, as the large transnational media companies (such as Google) have redistributed the advertising flows but added little to content production. Still,

the decision-makers of the large Estonian private media organizations are not “increasingly located abroad” any more. Vice versa – the news agency BNS has been sold back to an Estonian owner, as well as all groups Schibsted (Norway) Estonia based outlets: *Postimees*, the group of local papers, television *Kanal 2* and the Trio LSL radio group (*Kuku, Elmar*, etc.).¹⁵

In Estonia, cultural norms are influential and the general approach is rather to avoid legal over-regulation. There is no specific media law enforced in Estonia, except for the Media Services Act (former Broadcasting Act) and the Estonian National Broadcasting Act. Basic values (safeguards) affecting media performance and the related actors have been embedded in historical discursive institutionalism of the press, defining and enforcing good conduct as part of national cultural heritage (Cf. Harro-Loit & Loit 2014 – Entry 2). In the context of the MDM report, it explains why for instance the principle of Net Neutrality imposed by the Electronic Communications Act has been adopted so smoothly, unlike in many countries of Western Europe. This feature also constitutes the recurrent context for “Radio in Estonia: Meager but Enduring” (Loit 2012, Entry 3).

But digitalization has not addressed the issues concerning the governance of content producers, broadcasting licences or the declining advertising revenues for the print which has traditionally been the main news producing sector in the Estonian media.

4.2 Theme II: paradoxes creating value conflicts

When Study 1 (the MDM) predominantly characterized the change related to digitalization of the media (especially the broadcasting), the research done within Mediadem (Entries 2, 4, 5, 7) and MediaAct (Entry 6) enabled researchers to analyze the reasons why freedom of expression and access to information serve the public better than autonomy of content production and regulation for balancing the market influences.

The analysis of Estonian media governance outlined several paradoxes that create specific value conflicts in this area.

The first paradox is linked to the size of the media market. Since the 1990s, the Estonian media and communication policy has prioritized economic interests and, hence, the media policy has been liberal. Concurrently, the small size of the market supports natural oligopoly while one speaks about content producers and distributors. Usually, observers consider media oligopoly is a risk to “diversity and pluralism”. However, the Estonian media market is small, and

¹⁵ This ownership pattern has changed right after releasing the report. Schibsted sold the possessions to owners of Estonian origin, at the final stage to a businessman also active in pharmaceutical business – Margus Linnamäe, Moreover in 2017, all media ventures were merged under a sole company – Eesti Meedia.

the bigger risk is a media that both too fragmented and poor to fulfill the need to produce reliable and independent news content.

In comparative media governance analysis projects, the size of the market is just one variable among others. Still, the claim of this thesis is that the values and risks should be organized into hierarchies. To solve the small market vs. pluralism dichotomy in Estonian media governance, the value of independence should be put above pluralism. This result is supported by interviews carried out with the Estonian journalists on autonomy and pressure mechanisms and published in an article (2014 – Entry 2). In a small media market, journalists' autonomy is vulnerable, as the limited job market makes journalists less free to choose between loyalties towards organizational and personal/professional values.

At the same time, to counterbalance the natural oligopoly – the supremacy of two large media companies – a more interventionist or active media policy would be useful. In the analysis, various risks were listed: restriction of the freedom of speech, including both the artistic and the commercial speech.

4.3 Theme III: Activity in media governance

In the article/report “Media Policy in Estonia: Small Market Paradoxes” (Loit & Harro-Loit 2012 – Entry 4), the actor-approach to the media governance analysis was applied, placing different actors on to two scales: the implementation passivity-activity scale and the scale delineating the “legacy discourse”. The latter is comparable to what Kirkpatrick (2013) describes as a spectrum between vernacular and official policy-making. Still there is an important difference between Kirkpatrick’s “vernacular media policy making” and the actor approach used by the author of the current thesis. While, according to Kirkpatrick, the parents’ dictum, “... No TV before your homework is done,” is also a media policy (2013, 636), the media governance analysis concerning the lay people of this thesis presumes that individuals do something that not only influences the media performance but also leaves a trace: whether they write a complaint to the press council or blog media analysis (Loit & Harro-Loit 2012, 91-92). Both the official media governance activity (e.g. lawsuits; widely discussed cases on media performance; PCs’ decisions, etc.) and the activity, carried out by lay-people, formulate discursive practices.

When applying certain domains of discourses to the analysis – freedom of speech; data protection, information diversity; right of reply; presumption of innocence, hatred speech – the main conclusion was that the media governance discourse in Estonia is erratic: in some domains, the discourse is elaborated; in other domains, legal regulation exists but the actual implementation is poor or missing.

The fourth stage of the Mediadem project involved the formulation of policy guidelines for the promotion of free and independent media on the basis of the project’s findings. These address state and non-state actors involved in me-

dia policy-making, the European Union and the Council of Europe. Our policy recommendations take the form of a collective policy report and three policy briefs forming part of Mediadem's policy brief series.

The analysis has shown that media policy is predominantly a national policy domain. However, the Council of Europe and the European Union have increasingly gained policy importance, and their influence might indeed become more pronounced in the years to come. Thus, for instance, the Mediadem project addressed some policy recommendations also to the aforementioned European institutions (see Cafaggi et al. 2012).

4.4 Policy recommendations for the Mediadem project

By taking into consideration the contextual factors outlined in my research during the Mediadem project (Entries 7, 5, & 4), I provided major policy recommendations for the promotion of media freedom and independence in Estonia (Harro-Loit & Loit 2012 – Annex 1). The recommendations were as follows:

1. Review the liberal and market-oriented approach to media policy.
2. Enhance independent mechanisms for the scrutiny of broadcasting organisations.
3. Support professional journalism, transparency of job appointments and accountability of individual journalists.
4. Balance the freedom of the press and individual rights in the context of justice administration.
5. Promote multi-faceted debate on media ethics.
6. Integrate journalists' professional education and media literacy in the media policy.

In the introductory note to the Mediadem policy report assembling policy recommendations for national actors compiled by country teams, the Mediadem consortium stated that research is of "no value when its results are not reflected into political and societal debates. To bridge this well-known gap, the teams of the Mediadem project reviewed the results of their work to provide policy makers and the media policy community more broadly with a condensed version of their findings."¹⁶ As this statement demonstrates, the recommendations represented "the essence of Mediadem's output."

The paper with recommendations has been appended to this thesis as Annex 1. Below, a short summary of these will be provided. Six years after the release, these recommendations still stand and mostly have not been resolved.

¹⁶ Available at <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/11/D4.1.pdf>, p. 9.

4.4.1 Review the liberal and market-oriented approach to media policy.

The liberal and market-oriented approach to the media policy should be critically reviewed according to the needs of the Estonian democracy and culture. Political decisions should be based on a multidimensional analysis of the performance of different media sectors as well as specific analysis of the media economy in Estonia.

[**Comment in 2018:** No major improvements have, in the meantime, taken place.]

4.4.2 Enhance independent mechanisms for the scrutiny of broadcasting organisations.

At the time of releasing the recommendations, the state-of-affairs stood as indicated in the report: “The development of media policy, the processing of licences as well as supervision – all these are responsibilities of the Ministry of Culture. No actual compromise of independent regulatory functions has occurred, but this can apparently be suspected. Moreover, the media department of the Ministry is currently not manned at all and, therefore, it cannot perform its tasks. For this reason, it is necessary to establish an effective independent body to supervise the performance of media organisations.” During the time passing, these data has formally outdated. Soon after these recommendations were published, the regulatory tasks were passed over to the Technical Regulation Authority, leaving the Ministry of Culture to deal only with media policy making. As indicated in Section 2.2.1, this has not improved the capability of monitoring. In addition, several new problems have occurred in division of activities between two state institutions lying under the area of governance of two different ministries.

In this respect, the recommendation still stands: *State authorities should perform effective and sufficient scrutiny concerning the performance of media service providers.*

[**Comment in 2018:** No major improvements have, in the meantime, taken place.]

4.4.3 Support professional journalism, transparency of job appointments and accountability of individual journalists.

Because of extensive changes in the media economy and business models during recent years, resources for producing professional high-quality news content have been reduced. Journalists say that they need to work quicker and have less time for analysis and checking facts; some journalists describe a value conflict between what they consider high-quality reporting and what is valued by their media organisation (e.g. speed and news to satisfy public curiosity). At the same time, while being critical, they do not ‘fight’ for their personal values. For their job safety, it is more reasonable for them to remain loyal to the values of their organisations.

Given that this kind of regulations that serve the public interest can only be applied in the public sphere, transparency of job appointments should first be applied in the PSB as the implied flagship of high-quality journalism.

In this context, the recommendation stood: *Policymakers and publishers should clarify the professional competencies required from journalists and increase transparency as regards the conditions of entry to the journalistic job market. The individual accountability of journalists should be promoted.*

[**Comment in 2018:** No major improvements have, in the meantime, taken place.]

4.4.4 Balance the freedom of the press and individual rights in the context of justice administration.

Although the Supreme Court has generally protected universal values, such as truth and privacy, in its rulings, the Court's influence on the media policy has been meagre. Perhaps the most influential case in this respect was the Vjatšeslav Leedo case¹⁷. As an outcome of the settlement of this case, it was clarified whether the online reader comment sections on the media websites must be considered as part of the journalistic output, and whether the media organisation is liable for the content of such sections.

The legislator should develop modi operandi to balance the freedom of the press and the individual rights of people both in judicial and extrajudicial proceedings, and grant individuals the right to define their private life and oblige the media to provide the general public with information that is highly important for democracy.

[**Comment in 2018:** No major domestic improvements have, in the meantime, taken place with the exception of bringing into effect the EU General Data Protection Regulation (GDPR), which harmonizes data privacy laws across Europe.]

4.4.5 Promote multi-faceted debate on media ethics.

With its two press councils, Estonia experiences a two-faceted situation. On the one hand, many journalists consider this situation to be confusing. On the other hand, the analysis of the argumentation quality of the adjudications of these two councils (particularly of the cases examined by both councils) demonstrates a positive influence on the diversity of public debate about moral dilemmas that may occur in journalistic work.

Journalists feel pressure by advertisers and public relations. Concurrently, some journalists do not see the blurring borderline between journalism and marketing as a moral conflict or as questioning professional ethics. The existing

¹⁷ This was also proceeded in the European Court of Human Rights (ECtHR): *Delfi vs. Estonia*, in 2013/2015.

Advertising Act seems insufficient to provide mechanisms against the ongoing legitimisation of hidden advertising.

The recommendation hereby sounded that *the state, the industry and civil society organisations should engage diverse actors involved in the field and initiate debate on media ethics in order to balance the different interests and values related to the mass media.*

[**Comment in 2018:** No new public paradigm has, in the meantime, appeared in this field.]

4.4.6 Integrate professional journalistic education and media literacy in the media policy.

The development of media and communication competencies at primary and secondary school should be incorporated in the general media policy as one of its important aims. Media education should not be about just providing media literacy, but also about implementing a completely new style of learning and teaching, e.g., one of the principles of media education is to discuss about the students' media experience. Professional journalistic education should also be considered as an important part of media policy. In this context, *the government should promote an understanding of the interrelatedness of professional journalistic education and overall media literacy.*

[**Comment in 2018:** No major improvements have, in the meantime, taken place. Professional journalistic education in the universities is under threat due to underfinancing of the higher education at large.]

4.5 Recommendations in the Mapping Digital Media report

Also, my Mapping Digital Media report (Entry 1, pp 82-84) defined certain issues to be improved and provided recommendations.

4.5.1 The Public Interest in Media Policy and Law

The performance of the Estonian media is significantly influenced by business interests, while the needs and interests of the public in respect of the media – and the ways in which these needs have been and should be fulfilled – have not been explicitly articulated or established. The need for legal provisions that would weigh the public interest in respect of the protection of privacy, media transparency, self-regulation and co-regulation, journalists' autonomy and job security, has not been seriously addressed.

The Ministry of Culture and the Technical Surveillance Authority (with jurisdiction over media issues) should consult with state institutions, commercial players, and civil society actors to develop a coherent media policy, clearly defining the public interest in mass communication and requiring transparency of media operations. This policy should be formulated as a non-normative pa-

per within a larger document (e.g. on national cultural policy) or as a stand-alone document like the Estonian Civil Society Development Concept or the Estonian Information Society Strategy.

[There has been no improvement since].

4.5.2 4.5.2. Media regulation

In the field of media law and regulation, issues in the following areas were detected:

- Choice of news on television and radio channels
- Widening the choice of digital services on television channels
- Media self-regulation.

1. Instead of producing their own newscasts, as required by law, some new digital television channels (as well as some radio stations) relay or repeat the newscasts from their group's flagship channel, simply to meet the legal requirements for news broadcasting. No action has been taken to ensure that these channels comply fully with the law.

The Ministry of Culture and Parliament should, without further delay, either implement the provisions of the Media Services Act, or launch an inclusive political debate to determine whether the minimum requirements for news output on digital channels are necessary and in the public interest.

[As to television services, derogations have been allowed to be made from the conditions at the justified request of the television service provider authorised to transmit predominantly music, sports events, or movies programme services since adoption of the Media Services Act (2011). In 2014, the clause "or other thematic programme services" was added to the Article 8, section 5.

In 2013, the section 5¹ was appended, extending this possibility for exception at request to national radio services transmitting music programmes.]

2. Terrestrial television channels provide few extra digital services. Promised extra services – especially those related to subtitles or voiceovers in Estonian, Russian, and other languages, particularly required for disabled people – have not been launched. The availability of such services has largely been constrained by the fact that most cable networks have yet been digitized. These networks still transmit in analog to 150,000 households.

The Ministry of Culture, The Ministry of Economic Affairs and Communication, and the Parliament should complete the digital switch-over on all platforms, terrestrial, cable and satellite, and muster the resources to motivate private television providers to introduce extra services on digital television.

[There are few small cable networks in the analogue mode.]

3. The code of ethics for the Estonian press, adopted in 1997, does not address digitization-related issues.

Media organizations, together with civil society groups and media experts, should update the code of ethics for the Estonian press.

[The code has not been updated.]

4.5.3 Providing Sufficient Financing for the Public Service Broadcaster

Funding for the public service broadcaster, Estonian Public Broadcasting, is not sufficient or predictable, despite development plans approved by Parliament or the Public Broadcasting Council, appointed by Parliament.

Parliament should finance ERR according to the approved development plans to avoid cases of insufficient and unpredictable funding.

[No policy decisions have been made, in the meantime, to resolve this discrepancy.]

4.5.4 Boost Digital Skills of the General Population

Although Estonians make active use of digital technologies, there are very few options for civic participation and e-democracy.

The Ministry of Education and Research and the Government should introduce effective programs, including public campaigns, to improve the overall digital literacy skills of the population. Such programs should offer both practical training courses and tutorials.

[There has been no major improvement in this issue.]

4.6 Two-dimensional assessment model for media governance implementation

In addition to various practical suggestions for media governance, this thesis provides also a generalized two-dimensional assessment model for media governance interpretation, addressing the research question 7 (Q7).

Figure 3 indicates how the model is placed into the general framework of media regulation and the media market which includes the cultural context (the diachronic character) of the society.¹⁸ Hereby, the actors have been broken into three overall categories: content providers, users and policymakers. The dark box tags the actor-approach applied in this dissertation. The media governance implementation box indicates the central desirable and universal values for media policy: freedom, autonomy, access, diversity and trust. Finally, Figure 4 displays two imperative actions in media governance – according to the results of this dissertation: monitoring the state of art within the media and policy planning. That kind of monitoring would provide relevant and trustful data about the everyday “health” of the media system, but also displays the efficiency of the applied regulatory instruments in shaping the desirable outcome. Concurrently, monitoring serves for planning adjustments to the media governance system.

¹⁸ This thesis does not focus on the EU regulatory framework.

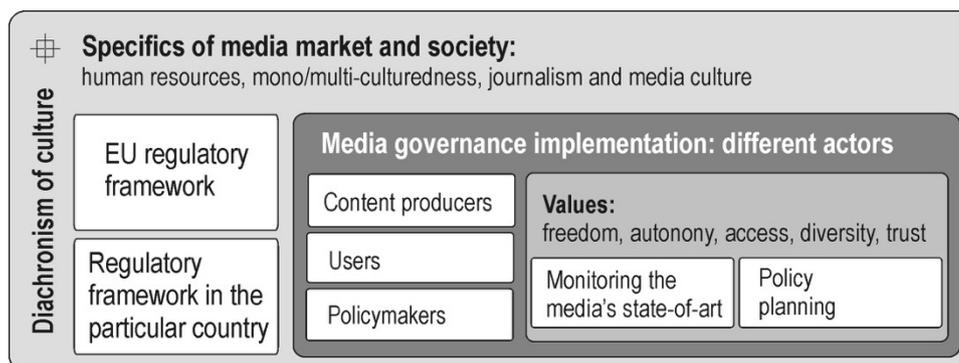


FIGURE 3 The two-dimensional assessment model for media governance implementation within the general regulatory framework.

Under this model, the contents of the Entries of this thesis draw up a critical reflection on Estonia's media system based on the related literature outlining the universal values for media policy and my empirical research as a country reporter on several aspects of implementing policies. The work indicates that media policy should be realized enforcing particular values.

The diachronic dimension (diachronism) exhibits the development of the media environment through a period of time or even history. One specific time-cut does not necessarily expose the dynamics caused by the factors' joint impact upon the media. Some indicators remain stable over time (e.g., the size of the market), others show remarkable change - e.g., the number of journalists has declined to a half compared to the mid-1990s; or the ownership of media changing from Estonian owners to foreigners and then back to Estonians (but now, to Estonians without any previous experience in the media business).

The "non-intervention" media policy by the state or, as Des Freedman (2014) has defined, the "non-decision-making" (see Section 2.2.1) also provides different outcomes over time, as both regulations and actors change whereas the values do not change so rapidly.

As for media policy, amongst all the tools, legal regulation is easily described. This alone, however, does not provide an actual picture of the media system, as the implementation of the legislation depends on activities and values of the actors and, thus, needs to be scrutinized to get a plausible picture of media. A sleeping law is not working.

As revealed in Addendum A1, any country is unique and cannot be easily measured by some universal criteria. This uniqueness also applies to diachronic development of any country. The history of radio in Estonia (Entry 3) exhibits how the diachronic cultural context has supported radio's becoming listened more than across Europe in average (see Entry 1), despite the ideological impact of the 50 years of the Soviet annexation. Entry 4 provides a notion of "historical discursive institutionalism" explaining, inter alia, why there is no general media law in Estonia and how can media system function without it - it has been embedded in the cultural tradition having its roots back in the 19th century when Estonia was just a province of the Russian Empire.

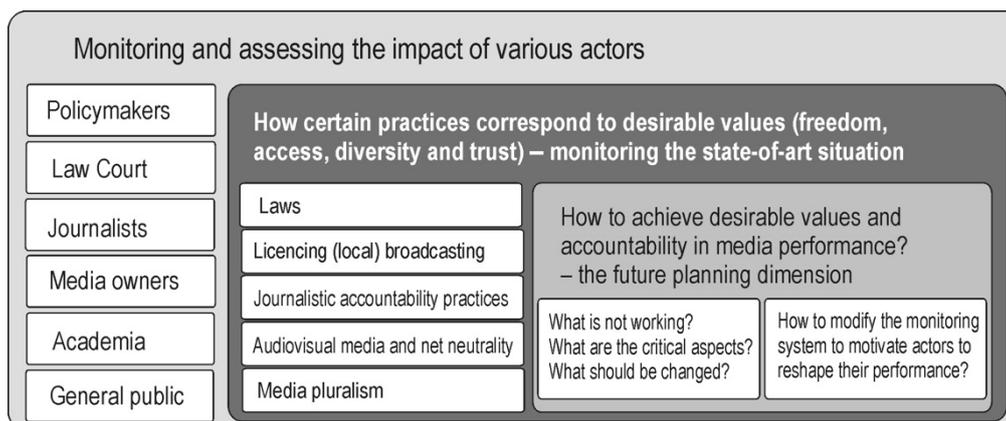


FIGURE 4 The two-dimensional assessment model for media governance implementation.

The Figure 4 reflects the problems and results of this thesis in further detail. The thesis does not cover in equal elaboration all possible media actors. The primary focus has been on state-level officials and politicians (policy makers) and journalists as the agents most actively impacting the media performance in Estonia. This is in line with the reviewed literature, which in most cases focuses on these major actors influencing media performance to a great extent. However, the actor-approach applied in the Mediadem studies (Entries 2, 4, 5, 7) enables more focus on all effacing actors, which researchers usually pay sparse attention to.

This thesis raises the critical question about media policies being implemented in Estonia. In this model, I propose relating certain practices in particular areas to the five central values in media policy (as presented in the Introduction of this thesis).

The list of the practices in Figure 4 is not conclusive, but it covers the major findings of this thesis: monitoring media law and law cases in Estonia; monitoring local broadcasting and the licence issuing; monitoring journalistic accountability instruments; monitoring audiovisual media and net neutrality; monitoring media pluralism by covering most aspects, critically asking: what information have we overlooked or totally miss? The two lower right white quadrates point to the retrospective and present media policy dimensions by asking what to take into consideration when assessing media governance in a particular country.

The other dimension – the central quadrate in the figure – is related to future planning: How to achieve a desirable outcome? What should be changed and how could the policy planning change the performance of different actors? In Estonia, this future-planning dimension is absent, and from a very liberal approach to media (market) regulation. Still, future planning would be more coherent if the actor-approach and certain value implementation analysis could be applied for providing the basis for the state-of-the-art analysis, which in turn, leads to outlining the future.

The list of distinct actors enables apportioning explicit responsibilities for any of them, as well as determining their motivation and exigencies. Hence, it also may indicate whose motivation needs modifying and how to improve, for instance, the quality of media content or media performance in a particular country.

5 CONCLUSIONS AND THE FINAL DISCUSSION

The results of this work have been collected and processed in the late 2000s and early 2010s. However, the author's experience in the field of media policy reaches back as far as the 1990s. Thus, some of the Entries analyze the developments in the media system since the early 1990s.

When describing the Estonia's media policy, one can say that the liberal ideology supporting it has stood without major shifts for more than a quarter of century. In the following subsection, I present the concluding remarks by the research questions (Q).

5.1 Reflection regards to the research questions

5.1.1 The main actors implementing the media governance in Estonia (Q1)

At times in the public discourse of Estonia, the media owners appear in the focus of public discussions as the impact of their performances on the media landscape. At the time of compiling this thesis, the memoirs by Mart Kadastik, the long-time chief manager of the Postimees Group (Eesti Meedia), were published.¹⁹ It reveals more than ever before the backgrounds of the owners' decision-making. The material emerging from this book and any other cases disclosed to the public could be the fulcrum for future media policy studies. In the context of the current work, we can claim that together with the decline in journalists' autonomy, that of the general media also declines. The decline of autonomy is also an outcome of the collapse of contemporary news media business models – but so far, it is an issue worriedly voiced by the academic community alone.

Only the public service media (PSM) has been divested of the volatility of the market forces, as in 2001 it was decided to drop advertising – the funds afterwards only came from the state budget. However, the idea of putting adver-

¹⁹ Kadastik, M. (2016). *Nüüd ma siis kirjutan. Elutööraamat*. [Now I am Writing. The Lifework-book] Tallinn: Varrak.

tising back pops up frequently, as the PSM remains underfinanced compared to the European standard. Still, this media-political decision, which did not come easily, has positively influenced the content of the PSM channels, which can avoid the race for entertainment resources.

Estonia has had an outstanding record of freedom of expression (especially for press freedom) and trust in media, which has been reflected in various international rankings. By the 2010s, these positions have somewhat degraded, particularly in the field of trust in media. This degradation has been brought about by the context of media regulation, such as expanding the protection of privacy and personal data. However, the current research shows that the economic pressures have reduced journalists' autonomy. Rankings have also gone down due to journalists' job security decline, cut in job opportunities, and the long-lasting political belief that media quality needs no support and the media performance needs no monitoring.

5.1.2 Central values in the monitoring system (Q5)

As established, a media policy supporting democracy would be based on four values: freedom, autonomy, diversity and pluralism. The first – freedom of speech (and correspondingly the press freedom) are enshrined in the Constitution and can be monitored with the help of various ranking indexes. Implementation of the freedom of speech can be observed through the analysis of law court cases and, to some extent, through cases of media self-regulation. Autonomy, however, cannot be evaluated with studying the legislation. For that, we need to monitor how various actors implement media policy. The current work considers politicians/officials and journalists to be the central actors for media policy.

5.1.3 The role of the state (Q3)

From the pluralism viewpoint, disappearance of essential local news has posed a problem. Estonia is a tiny media market, which in economic terms cannot sustainably run outlets for minute target audiences. There has never been local TV in Estonia. During the last two decades, local radio has almost disappeared. Local newspapers still endure but face unfair competition from the municipal gazettes. Still, I consider local radio promising, as the production costs are comparatively low and, according to the audience surveys (such as Kantar Emor), radio listening in Estonia is higher, on average, than in Europe. Various studies have revealed that the audiences first choice in an emergency would be radio (as the “hands-free” medium) to get the necessary guidance, as it works also on batteries, in the case of power blackouts.

The policymakers' lack of interest in these aspects is a phenomenon itself. Although several radio licence conditions prescribe locally targeted programming, nobody monitors the output to enforce compliance. I would conclude that implementing media policy values appears to be unimportant for the politicians and the general public.

Based on the research done for this thesis, I evaluate the absence of media policy implementation mechanisms analysis as shortsighted. In any country, overabundance of information occurs. Or, in the information society, we may call it 'information pollution' and this substantially perturbs the democratic processes in the society. Thus, it needs to be addressed by the media policy. In this context, the recent emergence issue of 'fake news' is not anything fundamentally new but an everlasting subject on the mechanisms safeguarding the quality of the news.

Based on the MPM monitoring as well as the studies by Kari Karppinen, I would conclude that media pluralism and diversity should not be the first and foremost targets in the era of information overload. Rather, journalistic autonomy would be the value to be protected.

5.1.4 Data to induce the monitoring system (Q4)

Without monitoring the journalistic community, journalists' job security and regional media (local radio) content, the "health" of the news media cannot be detected in full. Legally protected freedom of expression and few law court adjudications set impression of well-functioning media. Also, the Estonian media accountability system exhibits itself quite advanced – plenty of cases prove existence of ethical debates. Two parallel press councils provide multifaceted discourse in this. At the same time, the Code of Ethics of Estonian journalism has not been renewed since its adoption in 1997.

Activity by certain actors itself produces usable data which does not need extra monitoring. However, getting these data would need being acquainted with the system and the people in it. But on journalists' autonomy no data is emerging. The state could step in here and set up a corresponding monitoring, rather than considering media policy making and monitoring an intervention to press freedom.

5.1.5 Data developing the media governance (Q6)

As it becomes evident from this thesis, Estonia has been academically active in various comparative research on media policy. Several recommendations have been proposed, but it still appears that the main data to shape media organizations' policy implementation would just be the audience rates and advertising shares. It has not been studied deeply in what purpose the media organisations use available data on media market.

5.1.6 Actors' activities influencing the media governance (Q2, Q7)

Special interest in this thesis has been also put on media accountability mechanisms. In the 1990s, media self-regulation was advanced as the major mechanism to avoid the state's regulation over the media. Nowadays, it also functions to substitute state's meddling, but not to foster quality of news media performance. Rather the personnel policy of media organizations influences the news

content, and the marketing discourse is blending in with the news media. The results of this thesis show that journalists as actors have been left alone, and the general public is far too fragmented to be part of media governance.

5.2 Evaluation of the research and limitations

Media (its performance and economy) has been in constant transformation since 1990s. The Estonian policy-makers have responded to this challenge with minimal attention. This thesis covers various segments of the timespan of almost 30 years. As I have witnessed the change in Estonian media from diverse executive and academic positions, which I have held, I can use my contextual knowledge of the media system. No everything in the past has been well documented and the existing documentation needs contextual comprehension.

Still, Estonia does not have a diachronic monitoring system on the journalistic profession, media-related court-cases; ownership changes; legislative changes in media; or news content development. The knowledge about the dynamics of contextual factors influencing media performance is limited. The audience shares are monitored by private polling companies who charge for the data. The newspaper association collects circulation data but the statistics covers only their member newspapers. About the advertising market measurement data (by private company Kantar Emor) there is an ongoing methodological debate, as the media organizations claim not to have earned as much as Kantar Emor has estimated. Therefore, one of the results of the thesis – the critical overview of data about media performance – constitutes a minor limitation in this the study.

The key limitation for this thesis is the unequal attention given to all the actors. For example, the advertising and marketing is not included at all. Also, the research methods covering different actors vary. The law court engagement has been analysed with the help of document analysis. Regarding public participation and significant organizations (e.g., the Data Protection Inspectorate, or the press councils) case studies could be applied. Interviewing has been used for studying journalists, media owners and politicians. The agenda of private broadcasters and the public broadcaster has been analysed through case studies and document analyses.

Politicians and some other non-media actors are not very talkative on media matters. Difficulties with getting interviews from some experts tend to exhibit their uncertainty in this field (no clear agenda) or fear speaking up. In this thesis, also the academic community has mostly not been involved – except for co-authoring the studies. However, the academic community in Estonia possesses most of the available data on the media: various research reports, audience surveys, and journalism students' research papers since the early 1960s. The latter provides some historical perspective to any data.

Regardless of these limits, I find the two-dimensional model of media governance implementation, when critical questions asked about the available

data, to enable the outlining of contemporary media governance possibilities. The actor-approach enables to consider the contextual changes that would be hidden otherwise.

5.3 Future research perspectives

Further research might focus on media governance practices. As has been pointed out, a mere description of the regulatory framework would only provide an insufficient picture, especially when effecting comparative research, because media market size and special needs of the market are not noted. In the case of Estonia, it is important to develop a methodology for media governance research, importantly emphasizing the autonomy risks and distinguishing between the universal and unique features of the journalistic profession. In this comparative research, specific attention should be paid to owners and politicians as actors. It would be relevant, by means of public attention and critical analysis, to hold power-holders accountable for their contributions in media policy making.

The state needs to admit that since the business models of commercial media have collapsed, the model(s) ought to be raised to the public agenda. Journalistic media exhibits an incapability to realize its public task in a democratic society – that of providing analysis of society and governing institutions. Currently, Estonian society is facing many serious issues but what emerges from journalistic coverage is only confusion and political swaggering.

My thesis is critical towards the liberal media governance. Chiefly, I mean that journalists and their autonomy, as a value, need the state to provide wider protection. Possible future research should scrutinize Estonian advertising and marketing sectors of the economy. Estonia needs to determine how to deal with transnational media companies (like Google and Facebook) “creaming off” large portions of the miniscule market without contributing to local journalism, which in a small nation state is an important matter of national culture.

The thesis paid scant attention to policies promoting media literacy, even though the challenges are obvious. In Estonia, the media literacy issue has remained on the agenda but mainly for academia and, to some extent, for the system of general education. Even the hazard caused by the “fake news” and information war operations has not upgraded the political agenda to incorporate media literacy in the whole of media governance.

It would be necessary for future research to continue analysing Estonian media governance in a comparative framework. But the comparative methodology needs to be improved. Future research planning must involve the available data and experience. Actor-based governance analysis needs to improve the methodology for detecting, about the types of data that occur autogenously, and which data needs to be collected in an organized manner. The latter applies to data about journalists’ working conditions (number, wages, etc.) and local media operations.

SUMMARY

This thesis analyses the implementation mechanisms of media policy in Estonia. The empirical research has been published in nine works (seven articles and two addenda) of which three focus on journalism and journalists, five on various regulation systems and one focuses on the cultural development of a media channel – radio. The thesis' cover text frames the outcome in two ways. On the one hand, the author contextualizes it with the values for media policy: freedom, autonomy, diversity and pluralism. On the other hand, the author connects these values and the applied analysis of media policy with the 'actor-approach'. In doing so, the author suggests a critical approach for this analysis, defining it as 'the two-dimensional assessment model for media governance implementation'.

The principal outcome of the empirical research of this thesis is that analysis of the media policy implementation in Estonia is erratic. To a large extent, this derives from the free-market ideology that has prevailed since Estonia re-established independence in the early 1990s. According to this ideology, the best media policy maker would be the free market, which must be free of state intervention. However, an under-governed media market does not necessarily exhibit evolution towards autonomy, pluralism, quality and locally relevant content.

For a democratic society, it has become vital if the state sustains the production of autonomous news contents. Nevertheless, the fundamental change in news media business models is demolishing the old news media system. Societies must negotiate, if the old values regarding media policy are to be applied to the new paradigm.

The presumption of this thesis is that the media policy making process itself is a media policy, as media system analysis, which once started from a statistic description, has been getting more dynamic (Jakubowicz 2010, 1). Therefore, it is a matter of the utmost importance to establish who is negotiating about policies concerning media performance and upon what values. And who should take responsibility for the performance of the news media? Consequently, the 'actor approach' appears as the main approach of the current thesis on Estonian media policy implications. Uniquely, critical assessment of various policy actors has been made, including the option to regularly monitor the daily performances of the actors, who are predominantly media organisations.

The present thesis considers media policy is *a process*, and media governance by certain stakeholders and actors is one of the dimensions of the model proposed in this thesis. The research was triggered by the theoretical foundation laid within the Mediadem project by Dia Anagnostou, Rachael Craufurd Smith and Evangelia Psychogiopoulou, according to which media policy is based on various actors. The thesis shows how the practices of different actors influence media performance: do the practices, based on integral value clarification or individual interests of the media actors, provide

critical analysis of the chances of liberal media policy from the perspective of media actors.

This thesis provides a schema to be used as a standby tool for assessing and discussing the role of policy players at any time (Section 2.2). In addition to various practical suggestions for media governance, the thesis provides a generalized two-dimensional diachronic assessment model for media governance interpretation (see section 4.6, Figures 3 and 4). The two figures combine to indicate how the model is placed into the general framework of media regulation and the media market, which includes the cultural context (the diachronic character) of the country. Under this model, the contents of the Entries included in this thesis draw up a critical reflection on Estonia's media system based on related literature outlining the universal values for media policy and the author's empirical research. The work indicates that media policy should be realized enforcing particular values. The other dimension is related to future planning. In Estonia, the future-planning dimension is absent, and is an outcome of a very liberal approach to media (market) regulation. Future planning would be more coherent if the actor-approach and certain value implementation analysis would be applied for providing the basis for the state-of-the-art analysis, which in turn, leads to outlining the future. The list of distinct actors enables setting explicit responsibilities for any of them, as well as determining their motivation and exigencies.

The thesis defines the state as one of the principle actors. While some agencies operate with appropriate activity (e.g., the Data Protection Inspectorate), many others represent the "non-interventional policy", avoiding media politically designed settlements. Paradoxically, this simultaneously brings along under- and overregulation. In Estonia, the dimension of the "non-interventional media policy" is sensibly vast and arises from the general liberal attitude towards media and other transactions. With that, Estonia has adopted an approach that Des Freedman (2014, 64) characterizes as "negative policy" or "policy silence" and "non-decision-making", the concept of which dates to a libertarian viewpoint on government intervention which, if ever necessary, must be "minimal and non-intrusive".

The levels of effort applied by different actors to the implementation of media policy appear to be unequal. Media policy actors are never (fully) autonomous; therefore, the agreement on values as well as implementation of practices would be valuable. All these actors perform in certain contexts: regulatory and cultural. In this thesis, the regulatory context is described via the discourse of media and information laws and related court practice in Estonia. As to culture, the thesis argues that journalism culture must be considered as one factor that may reveal universal and unique changes in the media in different countries over time.

In Estonia, cultural norms are influential and the general approach is rather to avoid legal regulation. There is no specific media law enforced in Estonia, except for the Media Services Act (former Broadcasting Act) and the Estonian National Broadcasting Act. Basic values (safeguards) affecting media per-

formance and the related actors have been embedded in the historical discursive institutionalism of the press, defining and enforcing good conduct as part of the national cultural heritage. Inter alia, the discourse explains why the principle of Net Neutrality imposed by the Electronic Communications Act has been adopted so smoothly, unlike in many countries of Western Europe. Still, digitalization has not addressed the issues concerning the governance of content producers, broadcasting licences or declining advertising revenues for the print press, which has traditionally been the main news producing sector in the Estonian media.

The analysis of Estonian media governance enabled the outline of several paradoxes that create specific value conflicts in this area. However, the small size of the market supports a natural oligopoly. Usually, observers consider a media oligopoly is a risk to “diversity and pluralism”. But the small Estonian media market rather faces the bigger risk of being too fragmented and, thus, a poor media, which impedes fulfilling the obligation to produce reliable and independent news.

In comparative media governance analysis projects, the size of the market is just one variable among others. The claim of this thesis is that the values and risks should be organized into hierarchies. To solve the small market vs. pluralism dichotomy in Estonian media governance, the value of independence should be put above pluralism. In a small media market, journalists’ autonomy is vulnerable, as the limited job market makes journalists less free to choose between loyalties towards organizational and personal/professional values.

At the same time, to counterbalance the natural oligopoly, a more interventionist (active) media policy would be useful.

When applying certain domains of discourses to the analysis – freedom of speech; data protection, information diversity; right of reply; presumption of innocence, hatred speech – the main conclusion was that the media governance discourse in Estonia is erratic: in some domains, the discourse is elaborated; in other domains, legal regulation exists but the actual implementation is poor or missing.

When describing the Estonia’s media policy, one can say that the liberal ideology supporting it has stood the test of time without any major shifts for more than a quarter of century. Together with a decline in journalists’ autonomy, the general media’s autonomy declines. The decline emerges also from the collapse of the contemporary news media business models. Only the public service media has been divested of the volatility of the market forces, as in 2001 it was decided to drop advertising. Thereafter, the state budget became the sole source of funds.

The thesis evaluates the absence of media policy implementation mechanisms to be shortsighted. In any country, overabundance of information occurs. Or, in the information society, we may call it ‘information pollution’ and this substantially perturbs the democratic processes in society and thus it needs to be addressed by media policy. In this context, the recently emerged issue of

'fake news' is nothing fundamentally new but an everlasting subject on the mechanisms safeguarding the quality of the news.

Without monitoring the journalistic community, journalists' job security and regional media (local radio) content, the "health" of the news media cannot be detected in full. Legally protected freedom of expression and few law court adjudications and self-regulation set the impression of a well-functioning media. But on journalists' autonomy, no data is emerging. The state could step in and set up corresponding monitoring activities, rather than considering media policy making and monitoring an intervention to press freedom. Often, the existing data collected during research activities by academic institutions is neglected by the state institutions and even the media organisations.

The key limitation for this thesis is the unequal attention given to the actors. Politicians and some other non-media actors are not very talkative on media matters. Likewise, the lay public is not active in discussing media-political issues. Regardless of these limits, the two-dimensional model of media governance implementation (when asking critical questions about data availability) enables the outlining of contemporary media governance possibilities. The actor-approach enables the study to consider the contextual changes that would be hidden otherwise.

It would be necessary to continue analysing Estonian media governance in a comparative framework in the future. The comparative methodology needs to be improved, involving actor-based governance analysis.

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ORIGINAL PAPERS

Entry 1

MAPPING DIGITAL MEDIA: ESTONIA

by

Loit, U. & Siibak, A., 2013

A report by the Open Society Foundations

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Mapping Digital Media: Estonia

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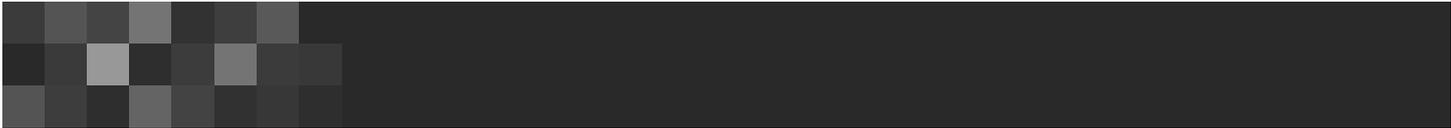
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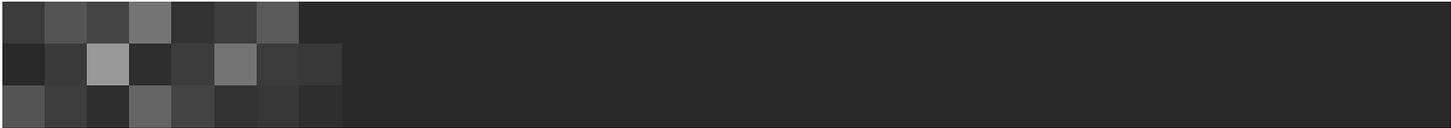
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Mapping Digital Media

The values that underpin good journalism, the need of citizens for reliable and abundant information, and the importance of such information for a healthy society and a robust democracy: these are perennial, and provide compass-bearings for anyone trying to make sense of current changes across the media landscape.

The standards in the profession are in the process of being set. Most of the effects on journalism imposed by new technology are shaped in the most developed societies, but these changes are equally influencing the media in less developed societies.

The **Mapping Digital Media** project, which examines the changes in-depth, aims to build bridges between researchers and policymakers, activists, academics and standard-setters across the world. It also builds policy capacity in countries where this is less developed, encouraging stakeholders to participate in and influence change. At the same time, this research creates a knowledge base, laying foundations for advocacy work, building capacity and enhancing debate.

The Media Program of the Open Society Foundations has seen how changes and continuity affect the media in different places, redefining the way they can operate sustainably while staying true to values of pluralism and diversity, transparency and accountability, editorial independence, freedom of expression and information, public service, and high professional standards.

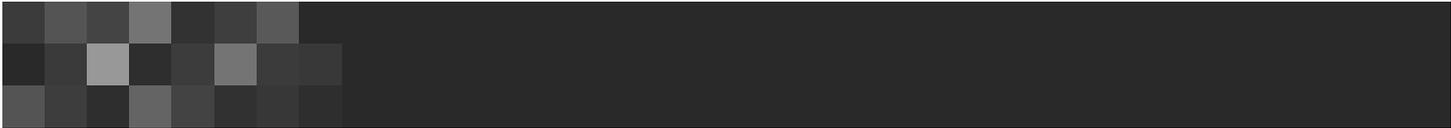
The Mapping Digital Media project assesses, in the light of these values, the global opportunities and risks that are created for media by the following developments:

- the switch-over from analog broadcasting to digital broadcasting;
- growth of new media platforms as sources of news;
- convergence of traditional broadcasting with telecommunications.

Covering 60 countries, the project examines how these changes affect the core democratic service that any media system should provide—news about political, economic and social affairs.

The **Mapping Digital Media** reports are produced by local researchers and partner organizations in each country. Cumulatively, these reports will provide a much-needed resource on the democratic role of digital media.

In addition to the country reports, the Open Society Media Program has commissioned research papers on a range of topics related to digital media. These papers are published as the **MDM Reference Series**.



Mapping Digital Media: Estonia

Executive Summary

Estonia blazed a trail, in terms of digitization, by completing digital switch-over of television in 2010, and adopting the relatively advanced MPEG-4 compression standard. This occurred five years ahead of the originally envisaged target of 2015.

However, only a minority of households was actually affected by the switch-over. The success of the simulcast transition period, the dominance of cable, and the rapidly expanding internet protocol television (IPTV) platform meant that the switch-off of analog signals went largely unnoticed. IPTV was already the main television platform for just under 20 percent of households, and its growth has threatened sustainable competition in free-to-air television. Of the four new digital channels licensed in 2008, only one remains (operated by the public broadcaster). Two others have been restructured as pay-TV offerings, and the fourth has closed altogether.

In other areas, Estonians have demonstrated a keen appetite for digital media uptake. More than three-quarters of the population accesses the internet regularly, and more than half of those are active on social networking platforms. Recent surveys suggest that nearly a quarter of internet users now connect via smartphones. As for traditional media, newspaper circulations have experienced a steady rather than dramatic decline over recent years, while television and radio audiences remain relatively stable.

Despite rapid growth in the readership of online news sites—predominantly those run by established media—broadcasting remains the dominant source for news and information. One key change in consumption over recent years has been the rapid growth of new thematic channels on cable and other pay-TV platforms, particularly among younger viewers. But this has not corresponded to an increase in news output, in terms of either quality or quantity. The most watched news programs have remained relatively unchanged, and there has been little progress toward more interactive services. A similar story can be told of online news, where most sites still do not produce original content or multimedia formats. Where they do, this tends to be limited in terms of context, analysis, and production values.

Thus, the potential for digital media to generate diversity in the overall news offer has not been fully realized, despite Estonia's advanced stage of digital media development. The relatively small and fragmented television market has made for intense ratings competition between news providers, raising fears that quality and diversity may in fact come under pressure in the new digital landscape.

The launch of the public broadcaster's second television channel in 2008 has, however, been a broad success—despite the modest scale of funds invested in it—adding a degree of niche and minority programming to the free-to-air television offer—although the decision to move the Russian-language newscast from the first to the second channel resulted in a significant drop in audience. The latest development plan of the public broadcaster foresees the expansion and improvement of its Russian-language services, and a widening of its role in the digital environment to include educational and informational services. Whether such ideals will be achieved remains uncertain, particularly in light of significant recent funding cuts.

In the meantime, Estonians are increasingly engaged in online news via social media platforms. More than a third of users are accustomed to posting links to news stories, or commenting on news via their social networking profiles. There is also a thriving culture of commenting on the news websites of established media. So much so that in a landmark case in 2009, the Supreme Court ruled that media organizations have editorial responsibility for these comment sections, adding a burden to online newsrooms that are already badly under-resourced.

Alongside the commenting culture, citizen journalism is developing independent of established media, as demonstrated by a dedicated self-publishing platform run by the Estonian Civic Journalism Order. Beyond this, however, recent research suggests that Estonians have not fully exploited the opportunities for citizenship and activism offered by digital tools, despite the availability of relatively advanced e-government services and a strong civil society presence online. One recent study found that only 11 percent of social media users have made a post, commented on, or asked questions about a theme related to politics or politicians.

More encouragingly perhaps, nearly a quarter of respondents had invited their “friends” to participate in civic engagements or initiatives, and Estonians have been increasingly active in single-issue campaigns over recent years, particularly via Facebook.

One of the most talked about has been a campaign called “My Estonia—Let's do it!”, which mobilized more than 50,000 volunteers in 2008 to collect 10,000 tonnes of illegally dumped garbage across the country. The campaign made use of Google imaging software to identify target areas and social media platforms to generate awareness, demonstrating the full potential of digital tools in civil society activism. Since then, it has developed into a global civil society movement involving 96 countries and 7 million volunteers around the world in the World Cleanup Action of 2012.

The extent to which such successful digital mobilizations rely on support from traditional media remains unclear. What is certain is that journalists at traditional newspapers continue to face budget cuts, redundancies, reductions in output, and the cancellation or postponement of long-form journalistic projects. In short, cost-

cutting has become the default feature of traditional newspaper business models with potentially harmful consequences for news quality and diversity. In particular, the demands on print journalists to carry out multiple production, publishing, and editing tasks at ever greater speeds, combined with a growing intake of younger and relatively inexperienced journalists, has fashioned a newsroom culture that is de-professionalized, more top-down, and less creative. Of most concern from the perspective of public interest news, periodic survey data suggest that journalists increasingly identify with the goals of their employers over the social role of their profession. This is reflected partly in a dramatic decline in trade union membership among journalists: from 60 percent in 1988 to just 17 percent in 2009.

The problem is particularly acute in online newsrooms where the “click value” of stories—defined by the number of visitors they attract—often leads to flawed editorial decisions and generates misleading or distorted headlines. The abundance of space and sources combined with increasingly scarce time has led to over-reliance on PR material, promotional writing, political leaks, or second-hand stories from other news outlets. Few journalists have the capacity or autonomy to engage in long-form, investigative, or in-depth journalism.

This has resulted in missed opportunities, particularly given the proactive disclosure of data that has taken place in tandem with the growth of digital media. Public electronic databases enforced by law (such as the commercial register) and documents made available by state municipal and public institutions have certainly increased the potential for investigative journalism. The development of open and data journalism also offers users increasingly interactive and dynamic ways to access news. However, this has not offset the impact of resource cuts on professional investigative journalists, and while blogs offer a cost-effective means of dissemination, their output is characterized as being opinion-based, irregular, and ephemeral. Several prominent blogs have faded away almost as soon as they gained notoriety, and there is evidence to suggest that the blogosphere in Estonia has passed its peak.

As for conventional media, there have been no enduring new entrants in the news market over recent years, despite minimal cross-ownership regulation. Attempts by outside interests to capitalize on the convergence and proliferation of Estonia’s media market have to date ended in spectacular failure. In 2008, Kalev Meedia purchased several magazines, a cable channel, and a radio station, and launched an online news site and digital free-to-air television channel. Within a year, all its media operations had closed, the company itself was bankrupted, and some 200 employees lost their jobs.

Market fragmentation in television has benefitted incumbents who can exploit their established brands and leverage content across increasing numbers of outlets and platforms. Growth has taken place on cable and other pay-TV platforms, rather than on terrestrial platforms. One major sticking point concerns the ability of commercial terrestrial broadcasters to be compensated by cable companies for carrying their content. In December 2012, the law was amended to clarify the right of terrestrial broadcasters to claim such compensation; agreement with the cable companies followed shortly after.

Although television advertising revenues were hit hard by the global economic downturn—falling by 31 percent in 2009—recovery is now well under way. The same cannot be said for public broadcasting, whose

annual state budget allocation remains some way off its high point in 2008. But it is newspapers that have been hit hardest by cyclical pressures, losing over 40 percent of advertising revenue in 2009. More ominously, the recession appears to have catalyzed both advertiser and reader migration to online platforms, with little sign of publishers being able to monetize online news content.

There is still some life left in newspapers due to their well-established position within the Estonian media landscape; for only in 2010 did television advertising revenues eclipse those of newspapers for the first time. Advertising losses to date have also been largely offset by cutbacks and savings in distribution costs enabled by digital technologies. But there is a strong sense that both newspapers and broadcasters have gone as far as they can in reducing costs, adding to the uncertainties stemming from the small scale of the market, the fragmentation of audiences, and the unpredictability of consumption patterns in the ever-changing digital environment.

In the face of such uncertainty, policymakers have stood by their commitment to technological and service neutrality—two principles enshrined in the Radio Frequency Allocation Plan adopted in 2005. At the same time, the law provides for regulatory intervention to ensure efficient use of spectrum, and the authorities have demonstrated their willingness to implement this. In one recent case, a digital license was revoked after the operator failed to launch a multiplex within the specified time period. Regulatory intervention has also been forthcoming in respect of Levira, which enjoys a natural monopoly as transmission network operator but has been subject to price controls and specific orders aimed at neutralizing its gatekeeping power.

Though licensing procedures are generally considered transparent and free from political bias, there has been some controversy as regards the absence of a formal independent media regulator—Estonia being the only EU member state without such a body. Only in early 2013 were proposals to establish an independent regulator revived, having languished for more than 10 years. At this time of writing, the changes are under parliamentary procedure and the final outcome cannot be assessed or even fully described.

As for publishers, though there are some statutory provisions that allow for government agencies and the courts to intervene in press regulation, both have tended to defer to self-regulatory mechanisms. But rather than providing an effective means of accountability, sanction, and redress, self-regulation has served primarily as a shield to protect the press against external criticism.

On a positive note, the press and news organizations remain in general relatively free of political influence; and although there is significant cross-media ownership and little opportunity for new entrants, digitization does not appear to have exacerbated this situation and there remains a degree of competition and pluralism within all sectors. The quantity of the overall news offer has undoubtedly increased over recent years, but not necessarily the spectrum of choice. And while the explosion of social media platforms has enabled various and growing numbers of groups to share their views and tell their stories, resource cuts have compromised the provision of good-quality public interest news. It remains to be seen whether the emergence of new business models will reverse or exacerbate this decline.

In conclusion, the reporters call for the development of media policy that will incentivize television service providers to introduce the additional digital television services that were promoted during switch-over. They also call for long-term predictable funding mechanisms to ensure that public service media, Estonian Public Broadcasting (*Eesti Rahvusringhääling*, ERR) above all, provide quality output.



Context

With a population of just 1.3 million, Estonia is one of the least populous members of the European Union (EU). It is a multi-ethnic country, although the significant Russian-speaking minority (30 percent) is concentrated within just two of the country's 15 regional counties.

As a relatively young parliamentary democracy, Estonia has developed a strong tradition and international reputation for both political and press freedom. Since gaining independence from the Soviet Union in 1991, it has also developed a stable and robust market economy characterized by high levels of growth and employment. Although significantly affected by the global recession between 2008 and 2010, indicators in 2012 suggest the recovery is well under way, driven by strong export growth. Estonia maintains a low level of public debt and as of 2012 was, significantly, the only EU country to have achieved a budget surplus. However, there remain deep regional and demographic inequalities, with the country's wealth overwhelmingly concentrated in the capital, Tallinn.

Estonia is also considered among the most advanced countries in the world in terms of digital media development and uptake, completing digital switch-over of television in 2010, far ahead of schedule. But the relatively small and fragmented media market, among other factors, has impeded progress toward a more plural and diverse media ecology.

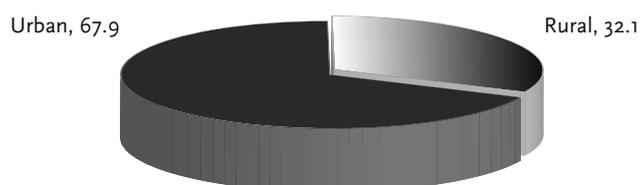
Social Indicators

Population (number of inhabitants): 1.3 million (2011 census)

Number of households: 585,100 (2011 census)

Figure 1.

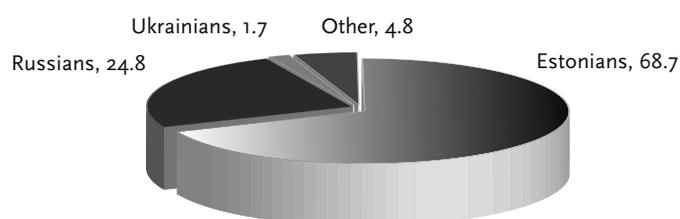
Rural–urban breakdown (% of total population), 2011



Source: Data from Statistics Estonia, 2011 census, preliminary findings, at <http://www.stat.ee> (accessed 10 January 2013)

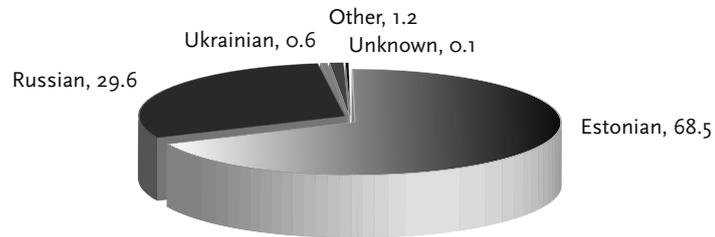
Figure 2.

Ethnic composition (% of total population), 2011



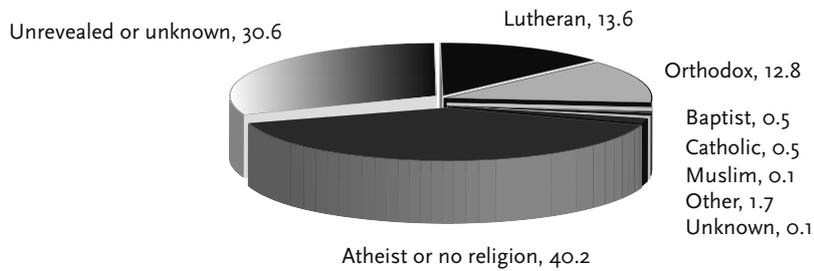
Source: Data from Statistics Estonia, 2011 census, preliminary findings, at <http://www.stat.ee> (accessed 10 January 2013)

Figure 3.
Linguistic composition (% of total population), 2011



Source: Data from Statistics Estonia, 2011 census, preliminary findings, at <http://www.stat.ee> (accessed 10 January 2013)

Figure 4.
Religious composition (% of population over 15 years old), 2000



Source: Data from Statistics Estonia, 2000 census

Economic Indicators

Table 1.
Economic indicators

	2005	2006	2007	2008	2009	2010	2011	2012 ^o
GDP (current prices, US\$ billion)	13.9	16.8	21.6	23.7	19.3	19.2	19.8	20.7
GDP (current prices, US\$), per head	10,317	12,499	16,160	17,651	14,402	14,416	14,948	15,607
Gross National Income (GNI), (current US\$), per head	15,920	18,160	20,160	20,970	19,230	19,380	20,830	n/a
Unemployment (% of total labor force)	7.9	5.9	4.6	5.5	13.7	15.5 ¹	16.3	14.4
Inflation (average annual rate, % against previous year)	4.0	4.4	6.6	10.3	-0.0	3.0 ²	1.9	2.0

Notes: o: outlook; n/a: not available

Sources: International Monetary Fund (IMF) for GDP, unemployment, and inflation data, unless otherwise stated; World Bank for GNI

1. Data from Statistics Estonia, 2010, Q3, at <http://www.stat.ee> (accessed 15 February 2011).

2. Data from Statistics Estonia, 2010, at <http://www.stat.ee> (accessed 15 February 2011).



1. Media Consumption: The Digital Factor

1.1 Digital Take-up

1.1.1 Digital Equipment

Digital reception is expanding rapidly in Estonia, enabled by broadband internet access. The latter has been technologically bound up with cable television, which is also switching to digital transmission. The terrestrial television switched over to digital transmission mode on 1 July 2010, freeing spectrum for a “digital dividend,” and requiring households to obtain either set-top boxes or television sets with built-in MPEG-4 receiving ability. However, according to the market research company TNS Emor, up to 1.5 percent of households were unprepared for switch-over and faced a sudden loss of television signal.³ Those receiving signal via cable (including IPTV) or satellite (Viasat), on the other hand, were unaffected by switch-over. Upgrading to digital cable is expected to take place gradually over the coming years.

The number of television sets within households has been growing steadily. In about a quarter of households there are now two television sets in working order, 9 percent have three working television sets, and some 2–3 percent operate four or more television sets within the household. Many of these television sets became dysfunctional as a result of switch-over as they were not equipped with digiboxes. The proportion of households without a television set in working order amounted to 2–2.5 percent prior to switch-over, increasing to 4.2 percent immediately afterwards. About 1.4 percent of households had a functional television set but could not receive any program on it. As described in the Final Report by the Government Commission on Transition to Digital Terrestrial Television, this contingent was heterogeneous: it comprised both young and elderly, predominantly in southern and rural Estonia. It included those people leaving the technical upgrading to the last minute and those not valuing television enough to spend money on new electronic devices or who could not afford it.⁴

3. Data by TNS Emor, retrieved from “Maapealse analoogtelevisiooni levitamise lõpetamine ja täielikule digitaalsele levile üleminek Eestis aastatel 2007–2010” (End of Terrestrial Analog Television Broadcasting and Overall Transition to Digital Broadcasting in Estonia 2007–2010), Final Report of the Government Commission on Transition to Digital Terrestrial Television, 9 November 2010, at <http://www.emor.ee> (accessed 12 December 2012) (hereafter, TNS Emor, 2010).

4. TNS Emor, 2010.

Table 2.

Households owning equipment, 2005–2011

	2005		2006		2007		2010 ⁸		2009		2010 ⁵		2011	
	No. of HH ⁶ ('000)	% of THH ⁷	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH	No. of HH ('000)	% of THH
TV set	492	93.0	517	98.0	509	98.9	507	98.9	507	98.9	497	96.9	497	96.9
Radio set ⁸	511	96.6	505	95.7	489	95.1	477	93.0	471	92.0	468	91.3	n/a	n/a
PC	227	43.0	274	52.0	293	57.0	305	59.6	333	65.1	389 ⁹	69.2	409	71.4

Note: n/a: not available

Sources: Calculations by OSF editors based on data from International Telecommunication Union (ITU), Statistics Estonia, and TNS Emor

1.1.2 Platforms

Ultimately, digital switch-off affected only 13.5 percent of households, with a further 36 percent having already made the switch during the simulcast period beginning in 2005.

The first schedule for digitization, in the “Concept for Digital Television” (2004), envisaged that switch-over would happen by 2015. This date was rescheduled to 2010 a couple of years later.¹⁰ This policy foresaw that terrestrial and mobile digital television would be the most promising digital platforms in Estonia. The “Concept” argued that digital satellite television probably had no future as the country’s small size does not qualify for a major satellite market. It was therefore surprising that the Viasat digital satellite service was introduced subsequently. By 2008, IPTV was making inroads into the digital broadcasting market. 2008 also saw an increase in satellite television reception, while cable usage remained constant. The use of satellite reception subsequently decreased. This was presumably due to the extension of IPTV—by then reaching remote private households—and the inadmissibility of attaching receiver disks to apartment building facades. Later, terrestrial pay-TV was also launched.

According to the Final Report of the Government Commission on Transition to Digital Terrestrial Television (DTT), cable maintained its share among television reception platforms during the initial transition to DTT,

5. After the switch to digital, according to data from TNS Emor, 4.2 percent of households did not possess a TV set capable of receiving a digital signal. See U. Jaagant, “Aruanne: digilevile üleminek kahekordistas telekatörjutate arvu” (Report: Digital Switch-over Doubled the Number of TV-defiers), *Eesti Päevaleht*, 1 December 2010, at <http://www.epl.ee/news/eesti/aruanne-digilevile-uleminek-kahekordistas-telekatörjutate-arvu.d?id=51287662> (accessed 10 January 2013).

6. Total number of households owning the equipment.

7. Total number of households in the country.

8. At least one radio set in the household. Data by TNS Emor (Q1 sample), at <http://www.emor.ee>.

9. Data from Statistics Estonia, at <http://www.stat.ee>.

10. See U. Loit, “Estonia,” in *Television across Europe: Regulation, Policy and Independence*, OSI, Budapest, pp. 612–613 (hereafter, Loit, *Television across Europe*).

growing slightly after 2008. According to the report, the share of digital cable distribution has maintained its rate at 15 percent.

Along with online, the i-Pad and tablet platform is establishing itself for newspapers, even though currently it tends to be used for entertainment, developed mainly by the Ekspress Group (*Eesti Ekspress*, *Eesti Päevaleht*). Thus far, surveys show that only 23 percent of internet users use smartphones for accessing the internet, and only 10 percent use tablet computers for that purpose.¹¹ However, usage is growing and up to 44 percent of young people (15–29 years old) access Facebook via smartphones.

Table 3.
Platform for the main TV reception and digital take-up, 2005–2010¹²

	2005		2006		2007		2008		2009		2010	
	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH
Terrestrial reception	273	48.6	261	45.8	190	33.5	155	26.9	170	29.8	145	25.8
– of which digital	n/a	n/a	n/a	n/a	3	0.5	16	2.7	60	10.5	115	20.4
Cable reception	246	43.8	247	43.4	307	54.3	318	55.5	296	51.8	293	52.1
– of which digital	n/a	n/a	n/a	n/a	14	2.4	20	3.4	22	3.9	14	2.6
Satellite reception	23	4.1	35	6.1	32	5.6	46	8.0	48	8.4	32	5.7
IPTV	n/a	n/a	n/a	n/a	31	5.6	56	9.8	73	12.8	108	19.2
Total digital	n/a	n/a	27	4.8	86	15.2	135	23.6	190	33.3	254	45.1

Notes: HH: total number of households owning the equipment; TVHH: total number of TV households in the country; n/a: not available

Source: Mediamétrie/Eurodata TV Worldwide

Even though Estonia ranked fifth in the world for mobile broadband quality in 2010,¹³ the same study indicated that broadband quality needed to be improved across the country—particularly fixed broadband networks in rural regions. The Estonian Broadband Development Foundation (*Eesti Lairiba Arenduse Sihtasutus*, ELASA), a body founded at the initiative of the Ministry of Economic Affairs and Communications and by the members of the Estonian Association of Information Technology and Telecommunications (*Eesti Infotehnoloogia ja Telekommunikatsiooni Liit*, ITL), has set the goal of providing all residential houses, businesses, and authorities with connections to a next-generation broadband network, and achieving a data transmission speed of up to 100 Mbit/s by the year 2015.¹⁴ This will entail the installation of more than 6,000 km of fiber-optic cable and the construction of more than 1,400 connection points to ensure that 98

11. Survey by GfK Custom Research Baltic and the PRB Agency, conducted in February 2012, at http://www.gfk.com/gfkbaltic/public_relations/press_releases/index.ee.html (in Estonian, accessed 30 January 2013).

12. The figures refer to the main TV set in multi-TV households.

13. Situation in September 2010—Broadband Quality Score III, “A Global Study of Broadband Quality,” October 2010, Said Business School, University of Oxford. This study indicates, however, that broadband quality needs to be improved across the country, particularly fixed networks in rural regions.

14. This project is called EstWin: see <http://www.elasa.ee/index.php?page=3> (accessed 20 February 2013).

percent of residences, businesses, and authorities are located closer than 1.5 km to the basic network. This vision for the future has been approved by the government.

The overall internet usage rate in Estonia is slightly higher (78.4 percent) than the EU27 average (73 percent), as at the beginning of 2012, according to a government report.¹⁵ Estonia still lags behind the leader countries (in Sweden and Netherlands the rate is almost 90 percent): 75 percent of households (and over 90 percent of households with children) have internet connection, technically mainly broadband, of which half still does not enable high-speed connection (40+ Mbit/s). High-speed internet connection is, according to the government overview referring to a Praxis study,¹⁶ available to only 45 percent of households, mainly in apartment blocks in larger urban areas. There is a digital divide between urban and rural regions (a difference of over 6 percentage points) with some regions (Pärnu, Jõgeva, Valga, and Viljandi Counties) lagging even further behind (7 percentage points below the rural average). The study points out that in 70 municipalities out of 226 there are no facilities equipped to provide broadband, which leaves 92,000 inhabitants without any high-speed internet access.

As to demographics, men and women use the internet almost in equal numbers—male use had caught up with female use by 2012. The government overview points out that unemployed persons constitute the most vulnerable group in terms of the digital divide along with persons of low educational level, who need to be supported, according to the evaluation.

Elderly people have also been spotlighted as a group with comparatively low internet usage: 56 percent of people aged 55–64 use the internet (an increase from 2011 of 6 percentage points), while only 27 percent of people aged 65–74 use the internet. The internet usage rate among the age group up to 44 years exceeded 93 percent in 2012.

Table 4.

Internet penetration rate (total internet subscriptions as % of the total population) and mobile penetration rate (total active SIM cards as % of total population), 2005–2011

	2005	2006	2007	2008	2009	2010	2011
Internet	14.6	19.2	21.2	24.2	25.6	25.2	n/a
– of which broadband	13.3	18.4	18.8	21.0	22.5	25.1	27.1
Mobile telephony	107.4	123.4	125.2	121.0	117.1	123.2	139.0
– of which 3G ¹⁷	n/a	n/a	n/a	n/a	n/a	27.0	n/a

Note: n/a: not available

Sources: OSF calculations based on ITU data

15. See Government of Estonia, “Ülevaade arvuti- ja internetikasutusest Eestis 2012” (Overview of Computer and Internet Use in Estonia in 2012), at <http://valitsus.ee/et/valitsus/tegevusprogramm/e-riigist-i-riigiks/infoyhiskonna-arengu-hetkeseis/arvuti-ja-internetikasutus-estis-2012> (accessed 20 February 2013).

16. O. Harjo, “Kiire internet vajab inimeste ja riigi panust” (High-speed Internet Needs Input from People and State), Postimees Online, 29 August 2012, at <http://arvamus.postimees.ee/954906/olav-harjo-kiire-internet-vajab-inimeste-ja-riigi-panust> (accessed 20 February 2013).

17. “The Estonia Telecommunications Report 2011” estimates that 3G subscribers accounted for over 27 percent of the total mobile customer base at the end of 2010. See http://www.researchandmarkets.com/reports/1535395/estonia_telecommunications_report_2011.pdf (accessed 15 February 2011).

1.2 Media Preferences

1.2.1 Main Shifts in Media Consumption

News consumption by platform differs along linguistic lines. A survey in 2002–2003¹⁸ showed that the proportions of Estonians' news consumption by media type were divided almost equally between national daily newspapers and national television (around 55 percent and 60 percent, respectively), while radio was considered an important source of news for a third of Estonians. An almost equal proportion of Estonia's Russian-speaking community—a third of it—considered that television programming from Russia was an important news source. The internet, according to this survey, served as an important news source for 21 percent of all respondents regardless of their first language.

More recent audience research by TNS Emor shows rapid growth in the use of websites for acquiring news over the past five years (in the case of Delfi.ee it has almost doubled), while newspaper circulation has experienced a slight decline. Concurrently, print media's share in the breakdown of advertising expenditure is declining, especially compared with television, and the internet advertising share is growing.

The television news audience shares, as well as radio listenership (shares), have remained relatively stable over recent years. Overall, television viewing has increased slightly over the last five years, exceeding four hours per day on average. Russian speakers watch television daily about an hour more than Estonian speakers.¹⁹ Viewing of niche television channels on cable networks both nationally and locally has increased exponentially over the last five years. Whereas in 2005 such viewing was almost non-existent, by 2010 it had grown to over 10 minutes per day.²⁰

The newly licensed digital channels have left the free-to-air market and switched to the pay-TV (conditional access networks) sector to save on distribution costs (Kanal 11, TV 6), or gone bankrupt (Kalev Meedia). Thus, the sole addition to the free-to-air market has been ETV2, the second channel of the public service broadcaster.

Also, on several occasions, the large commercial television broadcasters have considered removing Kanal 2 and TV 3 from free-to-air distribution—so they can earn revenue from being distributed only over conditional access networks—as the free-to-air networks were not willing to pay the television broadcasters (who actually invest money in content production), justifying this practice with reference to the “must carry” clause in the

18. MeeMa, “Mina. Maailm. Meedia” (Me. The World. The Media), survey by the University of Tartu in cooperation with Faktum research. Published as V. Kalmus et al. (eds), *Eesti elavik 21. sajandi algul* (Estonian Habitation at the Beginning of the 21st Century), Tartu Ülikooli Kirjastus, Tartu, 2004 (hereafter, “MeeMa Survey”).

19. In January 2011, 5 hrs 1 min for Russian-speakers and 4 hrs 14 mins for Estonians. Television viewing data by TNS Emor.

20. Data by TNS Emor, sourced from “Raha vs. vaadatavus: Eesti telemaastik 2010” (Money vs. Viewership: Estonian TV Landscape 2010), in *Eesti Akadeemilise Ajakirjanduse Seltsi aastaraamat 2009/2010* (Yearbook of the Academic Society of Estonian Journalism 2009/2010), Tartu Ülikooli Kirjastus, Tartu, 2011, p. 110.

Electronic Communication Act.²¹ In 2012, these threats became serious; at the end of the year, Kanal 2 and TV 3 were no longer shown on the STV and Starman networks, respectively, due to outstanding royalty payments owed to the content-providing broadcasters. (See section 6.3.)

1.2.2 Availability of a Diverse Range of News Platforms

The Broadcasting Act and the new Media Services Act obliges every television and radio media service provider (formerly the broadcasters) to reserve at least 5 percent of the daily transmission time of their program service on at least six days a week for transmitting self-produced news programs, except for the program service transmitted on national holidays.²²

However, presumably due to the relatively small scale of the Estonian media market and its limited resources, television news output has not increased in line with the growth of television channels under the digital shift. The contest for digital national broadcasting licenses brought three new channels into the market. Only one of them (Kalev Sport) started to have regular newscasts and is now bankrupt. Kanal 11, operated by Kanal 2, reruns the latter's daily late-night infotainment show, "*Reporter*." TV 6 fulfills the legal requirements by having text-TV news slides during the night and providing the static web-camera footage from the studio of the affiliated radio station Star FM. Other small channels, distributed by local or nationwide cable networks, similarly fulfill the obligatory news volume mainly by running news text slides at "dead time" slots (with relatively low audiences).

Thus, the main newscasts on television have remained the same despite the digital switch-over and new interactive services have not blossomed. However, the news archives of the major television channels have emerged online, allowing audiences to watch archived clips on demand. The few thematic and niche television channels do not produce original news content.

Digital switch-over has marginally expanded access to multichannel television, but only one terrestrial provider (Levira) has launched a terrestrial pay-TV service (ZoomTV) in co-operation with Starman. The overall share of terrestrial broadcasting is still relatively insignificant, and consequently digitization has not revolutionized television viewing for most Estonians.

As for online-only news services, websites such as Delfi.ee now produce original news content on various platforms including video (Delfi.TV). But the output remains limited in quantity and quality. Much of it consists of user-generated content (UGC) with little in the way of context and analysis or professional production values. They do, however, offer exclusive news content (primarily interviews with sources). The website of *Äripäev* business daily provides video content with production values that sometimes rival

21. Article 90 stipulates, at section 1, that cable distribution service providers "must guarantee the continuous retransmission of television programs transmitted by a provider of television services with unrestricted access ... for the transmission of which the provider of television services requires no charge." The first reaction by the Minister of Economic Affairs and Communication was that television service providers already had the right to collect royalties. However, in autumn 2012, Parliament amended the Article, granting free-to-air channels the right to collect royalties.

22. Effective as of January 2011.

television. Overall, online news services (provided by both established media and “pure-play” outlets) have demonstrated the potential to diversify the overall news offer in Estonia, but this potential has yet to be fully realized.

1.3 News Providers

1.3.1 Leading Sources of News

1.3.1.1 Print Media

Postimees and *Õhtuleht* are among the most read national newspapers. But regional and local papers serve as an important source of news in Estonia. Newspaper circulation as a whole has experienced a slight decline during the past five years, while traffic to the websites of newspapers has been growing. By the beginning of 2010, unique visitor figures for the *Postimees* site almost equaled that of its print circulation, while online traffic generated by the business daily *Äripäev* exceeded its print circulation.

Table 5.
Newspaper titles' reach (% of adult population), 2005–2010

Newspaper	Q1 2005	Q1 2006	Q1 2007	Q1 2008	Q1 2009	Q1 2010
<i>Postimees</i>	22.0	24.4	21.9	22.6	22.6	19.2
(SL) <i>Õhtuleht</i>	24.3	26.0	22.6	22.0	19.3	17.1
<i>Eesti Päevaleht</i>	15.3	12.4	13.8	12.8	12.5	10.3
<i>Äripäev</i>	7.1	7.3	7.4	8.0	7.9	4.0
<i>Molodezh Estonii</i> (Russian)	6.8	5.8	4.5	3.9	3.0	n/a
<i>Postimees</i> (Russian)	n/a	5.6	5.3	6.0	5.7	5.6
<i>Vesti Dnya</i> (Russian)	4.7	4.8	4.2	3.4	2.9	n/a
Local papers (aggregated) ²³	33.2	33.4	32.0	31.8	30.0	26.1

Notes: In the absence of yearly averages, quarterly data are presented; n/a: not available

Source: TNS Emor. Readership of an average issue as a percentage of the total audience. 100 percent equals 1,050,000 inhabitants aged 15–74, purchased directly from TNS Emor

1.3.1.2 Online

The Russian-language version of the online news service Delfi²⁴ has experienced rapid growth in readership, while several other Russian-language print dailies ceased operating in 2009, mostly due to economic reasons coupled with the growth of Delfi. However, *Postimees'* Russian-language title has maintained the same level of coverage since its launch in 2005. Its online counterpart has also maintained its coverage since its launch in 2007.

23. This aggregation includes the following local outlets: *Harju Elu*, *Hiiu Leht*, *Järva Teataja*, *Koit*, *Lääne Elu*, *Meie Maa*, *Nädaline*, *Põhjarannik*, *Pärnu Postimees*, *Sakala*, *Severnoye Poberezhye* (Russian), *Tartu Postimees*, *Valgamaalane*, *Virumaa Teataja*, *Vooremaa*, *Võrumaa Teataja*.

24. By March 2012, the editorial board of Delfi had merged with the board of the second-biggest daily, *Eesti Päevaleht*. Delfi continues to provide online news content and *Eesti Päevaleht* continues in print. Estonian and Russian national versions of Delfi have separate newsrooms, and their output is not identical. Delfi is a cross-border venture based in the Estonian capital, and operating also in Latvia, Lithuania, and the Ukraine.

The public service broadcaster, Estonian Public Broadcasting (*Eesti Rahvusringhääling*, ERR) launched its website Uudised.err.ee in 2006 (in Estonian), which was followed by a Russian-language site in 2007 and an English-language one in 2010. Even though the reach of Uudised.err.ee remained only a fraction of that commanded by Delfi in 2010, it still serves as a reliable, though not exclusive, source for commercial radio news services.²⁵

Table 6.
News websites' reach (% of adult population), 2005–2010

Online portal	Q1 2005	Q1 2006	Q1 2007	Q1 2008	Q1 2009	Q1 2010
Delfi.ee	10.8	12.3	15.3	16.5	18.4	18.1
Delfi.ee (Russian)	2.5	3.9	5.1	6.2	7.9	8.1
Postimees.ee	5.4	6.2	9.1	12.6	18.2	17.9
Postimees.ee (Russian)	n/a	n/a	n/a	2.2	3.0	3.0
Epl.ee	4.0	5.1	6.3	6.7	9.5	8.3
Ohtuleht.ee	4.3	5.7	5.4	9.1	12.6	13.4
Aripaev.ee	0.7	1.3	2.1	3.3	5.0	4.8
Err.ee ²⁶	n/a	n/a	n/a	n/a	1.7	3.2

Notes: In the absence of yearly averages, quarterly data are presented; n/a: not available

Source: TNS Emor. Readership of an average issue as a percentage of the total audience. 100 percent equals 1,050,000 inhabitants aged 15–74

Distinguishing between commercially oriented and non-commercial news providers is difficult as the borderlines appear to be blurred, due to the relatively small scale of the media market and the resulting merging of formats. Using qualitative analysis, commercial features can at times be found in outlets that define themselves as “quality papers” (*Postimees*, *Eesti Päevaleht*), and vice versa. Among the daily newspapers, *Õhtuleht* has outlined itself as a tabloid and the same applies to its online version. Most of the online portals maintain celebrity news sections and other features of a commercial character alongside regular non-commercial news.

1.3.1.3 Television

According to Eurobarometer, 85 percent of people in Estonia watch television every day or almost every day.²⁷ The average daily viewing time exceeds 4 hours a day.²⁸ The most watched channels are local, terrestrial,

25. The news bulletin items on commercial radio channels are very often based on open online news services, such as the above-mentioned Uudised.err.ee or Postimees.ee. Many radio stations judge that the pay-newswire Baltic News Service (BNS) is too expensive. Levels of original news production are mainly low, except for Radio Kuku.

26. ERR's online news services—Uudised.err.ee, as well as News.err.ee and Rus.err.ee—occur as sub-pages within the main corporate home page, Err.ee.

27. Eurobarometer survey, “Estonia national report,” autumn 2010, at http://ec.europa.eu/ceesti/pdf/eurobarometre/eb74_estonia_national_report_final.pdf (in Estonian, accessed 25 February 2013) (hereafter, Eurobarometer, “Estonia national report”).

28. Data for January 2013, by TNS Emor.

large, and old. However, the introduction of new digital options (both national and global channels) has decreased their shares by 6 or more percentage points over the last six years. By 2012, the shares of large local broadcasters were broadly equal, while the public channel ETV had reinforced its position among the most watched channels, with ETV2 showing particular progress. Increasing parity can be observed also among shares of the channels preferred by Russian-speaking audiences (PBK, NTV Mir, RTR Planeta). Smaller newcomers and niche channels have also established themselves.

Table 7.
TV channels' daily share of total viewing time (%), November 2006–November 2012

Channel	November 2006	November 2007	November 2008	November 2009	November 2010	November 2011	November 2012
ETV	17.1	15.3	15.4	15.3	14.8	14.6	16.3
Kanal 2	24.8	23.7	20.9	18.8	17.2	17.2	16.5
TV 3	18.0	18.1	18.2	16.1	13.3	12.8	12.0
ETV2	n/a	n/a	0.4	1.3	2.1	2.9	2.7
Kanal 11	n/a	n/a	1.1	1.6	2.5	2.0	1.6
TV 6	n/a	n/a	1.1	2.3	2.5	2.0	2.0
Seitse	n/a	0.1	0.2	0.3	0.2	0.2	0.2
Tallinna TV	n/a	n/a	n/a	n/a	n/a	0.2	0.5
PBK	11.1	14.2	12.2	12.4	10.9	10.6	8.7
NTV Mir	2.4	2.4	3.3	2.8	4.2	4.4	5.1
RTR Planeta	3.9	2.8	3.5	3.5	4.0	3.6	3.9
National Geographic	n/a	n/a	n/a	0.1	0.2	0.2	0.3
Fox Life	n/a	n/a	n/a	0.6	0.8	1.0	0.8

Note: n/a: not available

Source: TNS Emor, TV Audience Survey, universal, age four and above

1.3.1.4 Radio

People in Estonia are radio enthusiasts: 66 percent listen to radio every day or almost every day.²⁹ As to the linguistic divide, Estonians listen to radio slightly more than Russian speakers. The average daily listening time is 3 hours 40 minutes,³⁰ which has not changed much over the years. Estonians aged 12–74 keep listening to 3.2 radio stations. Over 50 percent of respondents in the MeeMa Survey claim to listen to radio news; 32 percent do this frequently.³¹

29. Eurobarometer, "Estonia national report."

30. Data from autumn 2012 by TNS Emor, "Raadioauditooriumi ülevaade 2012. Aasta sügisel" (Overview of Radio Audiences in Autumn 2012), at <http://www.emor.ee/raadioauditooriumi-ulevaade-2012-aasta-sugisel> (accessed 20 February 2013).

31. "MeeMa Survey." Questions about radio were put only to Estonian-speaking respondents.

Table 8.

Radio listening (stations primarily with talk format) daily reach (%), 2005–2012

Channel	Q2 2005	Q2 2006	Q2 2007	Q2 2008	Q2 2009	Q2 2010	Q2 2011	Q2 2012
Vikerraadio: Prime channel of the PSB, mainly talk and news format	24.8	22.3	21.5	23.2	21.4	21.8	23.2	20.3
Radio 4: PSB radio channel in Russian, mainly talk and news format	13.9	14.0	13.8	13.2	12.6	10.6	11.1	10.4
Kuku: Prime talk and news channel among the private stations (Trio LSL Group)	5.7	5.9	7.0	5.7	5.3	6.1	6.0	5.7
Other radio stations	61.3	60.3	61.1	62.9	62.3	62.1	62.2	60.6

Source: TNS Emor Radio Diary Survey, participants aged 12–74

The prime sources of radio news and current affairs coverage (the public service broadcaster's Vikerraadio, Russian-language Radio 4, and the private Kuku) have maintained their listenership. The differences between the channels' reach are a result of, among other things, their varied footprints. Given that the PSB has 100 percent coverage guaranteed by law, Kuku broadcasts if frequencies are available—and they can be exploited profitably.

1.3.2 Television News Programs

News bulletins have been predominantly produced by the largest television channels (ETV, Kanal 2, and TV 3). Digitization has not yet changed their output qualitatively. Some niche channels also produce news bulletins, including the newly launched municipal Tallinn Television, but many of them fill the news slots with formal content (text-TV) just to meet the requirements of the law. Thus, the newcomers launched as a result of digitization have not contributed to diversifying the total news output.

The changes in ratings during the last five years are insignificant. The exception was the Russian-language newscast of the public service broadcaster, which was switched from the first channel to the recently launched second channel, and experienced a huge drop in its already low ratings as a result. Since May 2010, the bulletin has been duplicated on TV 3+ in a bid to enlarge the audience. The ratings for 2010 showed a slight drop for the newscasts of all channels. However, there is not enough hard evidence to link this to any specific cause. Inter alia, the increase in internet news consumption may be one cause, as well as the effect of the economic recession.

The public service ETV's "*Aktuaalne kaamera*" (Actual Camera) newscast has been in tight competition with Kanal 2's infotainment show "*Reporter*." TV 3's newscast lags slightly behind. As to the schedule, the newscasts of Kanal 2 and TV 3 run simultaneously, albeit with seasonal variations.

With respect to the Russian-speaking community, the newscasts broadcast on Pervyi Baltiiski Kanal originating from Russia (and rebroadcast in all the Baltic countries) are the most watched. But as the data by TNS Emor

reveal, the half-hour local Estonian news slot has higher ratings than the central newscast from Moscow. The Russian-language newscast of the ETV lags far behind, as the overall audience share for Estonian-language channels among the Russian-speaking community is low. Switching the Russian “*Aktualnaya kamera*” to digital ETV2 also served as a reason for the sudden drop in viewing figures in 2009. According to several surveys, the majority of the audience for the Russian-language programming on ETV is made up of Estonians.

Table 9.

Ratings of major newscasts (%), 2005–2010

TV channel	Newscast	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010
Eesti Televisioon (ETV)	“Aktuaalne kaamera”	14.9	13.0	12.4	11.3	13.4	11.8
	“Aktualnaya kamera” (Russian language)	3.5	3.8	3.6	3.7	N.A	0.8
Kanal 2	“Reporter”	12.6	12.7	13.9	12.8	14.5	11.7
TV 3	“Seitsmesed/TV 3 uudised”	11.0	12.2	8.1	11.5	10.2	8.6
Pervyi Baltiiski Kanal (Russian)	“Vremya” (from Russia)	4.1	5.0	4.8	5.9	6.3	5.4
	“News of Estonia”	6.8	5.8	5.8	6.5	8.0	7.1

Note: In the absence of yearly averages, data available for a specific month are presented

Source: TNS Emor. TV Audience Survey, universal, age four and above. Percentage of total audience average per minute

1.3.3 Impact of Digital Media on Good-quality News

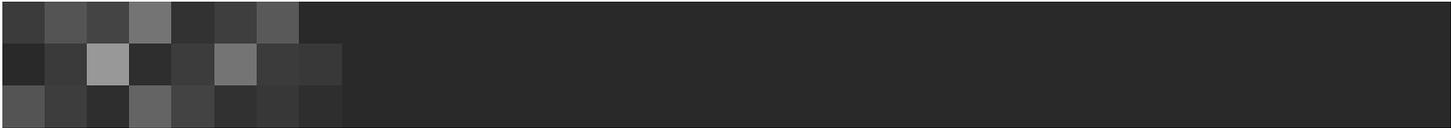
Qualitative improvement as a result of digitization cannot yet be observed in news output. The requirements deriving from the specifics of ratings competition in the digital age lead to channels producing more news with less quality, as the expansion of technological means has not been accompanied by an expansion in the labor force.

However, given the coincidence of economic recession with digitization over the last five years, it is hard to isolate and measure the specific impact of the latter on news quality. This applies both to commercial and non-commercial output, regardless of the channel. As digital technology tends to facilitate news production, the lackluster quality of the news content is presumably to be explained, in the first instance, by the discouraging financial conditions.

1.4 Assessments

The digital news outlets have changed the total news offer very little. On the one hand, the news flow via digital media, especially online news, has increased the total news output. However, this has not increased the quality and, indeed, may have contributed to a deterioration. Digital news lacks universally recognized criteria in news reporting, such as accuracy and comprehensiveness.

The transition of television broadcasting to the digital mode has so far not produced any diversification or qualitative change in the news offer of television channels. The influential news bulletins are provided by the main generalist national channels (ETV, Kanal 2, and TV 3), while the majority of digitally introduced niche channels meet news quota obligations in formal terms only: they provide text-based slides or reruns of newscasts produced by the parent mainstream channel without contributing anything original.



2. Digital Media and Public or State-administered Broadcasters

2.1 Public Service and State Institutions

2.1.1 Overview of Public Service Media; News and Current Affairs Output

Public service broadcasting was instituted to replace the established state broadcasting operators by adopting the Broadcasting Act in 1994.³² The then separate public radio and public television were integrated into one legal entity—*Eesti Rahvusringhääling* (ERR)—on 1 July 2007 by the newly adopted Estonian National Broadcasting Act, which also concretized the objectives and functions of the public broadcaster.

The relatively high audience shares for PSB in the early 1990s declined rapidly for several reasons: abandoning shows of a commercial nature (e.g. the “*Dating Game*”); foreign owners’ investment in the programming of commercial channels and the subsequent rise in competition between the channels; several managerial errors at public service television, predominantly due to insufficient state funding for the PSB. However, cancellation of advertising on ETV (the television arm of ERR) as of July 2002 worked in favor of the public service image which, as experts have concluded, should not be based on high ratings but on influence and credibility.³³

By 2012, ETV had regained the highest daily share among television channels,³⁴ and the second channel ETV2 has shown some increase in viewership over recent years. In 2011, only some 12 percent of the Russian-speaking community claimed to watch ETV almost every day.³⁵ However, ETV attracts a relatively high proportion of educated audiences.

32. For a more detailed background, see Loit, *Television across Europe*, pp. 577–578.

33. See Loit, *Television across Europe*; also H. Shein, “Rahvusringhäälingu kuvandiraamistik: taustategurid ja muud hüpoteesid” (Image Framework of the PSB: Background Factors and Other Hypotheses), on the blog Memokraat.ee, 7 February 2010, at <http://memokraat.ee/2010/02/rahvusringhaalingu-kuvandiraamistik-taust> (accessed 10 January 2011).

34. TNS Emor, “Teleauditooriumi ülevaade juunikuus 2012” (Survey of the TV Audience in June 2012), news item released on 6 June 2012, at <http://www.emor.ee/teleauditooriumi-ulevaade-juunikuus-2012> (accessed 20 July 2012).

35. H. Kaldaru, “Eesti elanikkonna meediateemaline arvamusuuring 2011” (Survey of Media-related Opinions of the Estonian Population), omnibus survey, November 2011, by Turu-uuringute AS for ERR, at http://err.ee/files/Uuringud_Meediaaruanne_2011.pdf (accessed 10 January 2013).

ETV2 was at its initial stage envisaged for programming in Russian,³⁶ especially after the “Bronze Soldier” riots,³⁷ and is currently running almost all the Russian-language production in Estonia, but it has failed to attract a significant proportion of the Russian-speaking audience. The management is considering giving up plans of having anything more than one Russian-language news bulletin, the ratings for which are also low.³⁸ The ERR 2011 Annual Report puts the matter simply: “Russian-language programming could only be produced with the help of single-purpose project financing.”³⁹ (This programming consisted of two talkshows, reduced to one a week in the autumn.)

Table 10.
Annual average audience share of PSB TV channels (%), 2005–2010

	2005	2006	2007	2008	2009	2010
ETV	17.1	17.3	16.4	15.6	15.7	15.3
Estonians	25.0	25.5	25.1	23.5	23.7	23.0
Russian-speakers	1.8	2.1	1.7	1.8	1.5	1.7
Higher education	20.8	21.1	21.0	20.5	21.1	21.1
ETV2	—	—	—	0.2	1.1	2.1
Estonians	—	—	—	0.3	1.5	3.1
Russian speakers	—	—	—	0	0.4	0.4
Higher education	—	—	—	0.2	1.5	2.5

Source: TNS Emor, sourced from ERR

Research conducted by ERR in 2009 found that slightly more than 70 percent of programming on ETV and ETV2 was originated in Estonia, compared to 29.8 percent on Kanal 2, 22.1 percent on TV 3, 11.4 percent on Kanal 11, and 5.5 percent on TV 6.⁴⁰

Not surprisingly, the proportion of U.S.-originated programs is relatively low among public service broadcasters (3.2 percent for ETV and 6.1 percent for ETV2), compared with private channels (29.9 percent on Kanal 2, 36.8 percent on Kanal 11, 45.4 percent on TV 3, and 56.4 percent on TV 6).⁴¹

36. See “Eesti Rahvusringhäälingu arengukava 2010–2013” (Development Plan for Estonian National Broadcasting 2010–2013), adopted by the Council of National Broadcasting on 3 March 2009, at http://err.ee/files/ERRAarengukava_2010-2013.pdf (accessed 10 January 2013).

37. The government’s April 2007 relocation of a 1947 war memorial to the Soviet army—known as the “Liberator of Tallinn”—triggered two nights of riots in Tallinn by members of Estonia’s Russian-speaking community. Experts called for better, more integrative information to be provided to the Russian-speaking community. See more in “The Last Soviet in Tallinn: Saga of the Bronze Soldier,” at <http://www.tallinn-life.com/tallinn/estonian-russian-relations>; Wikipedia; http://en.wikipedia.org/wiki/Bronze_Soldier_of_Tallinn (both accessed 20 July 2012).

38. D. Leitmaa, “Allikmaa: vene kanali ideest tuleks loobuda” (Allikmaa: The Idea of a Russian Channel should be Abandoned), *Eesti Päevaleht*, 5 March 2011.

39. ERR, “ERR majandusaasta aruanne 2011” (ERR Annual Report 2011), at http://err.ee/files/ERR_aastaaruanne2011_kinnitatud.pdf (accessed 10 January 2013).

40. Data by ERR Research Center, retrieved from the ERR Annual Report 2009. The textual forms (text-TV, split-screen, and schedule displaying) have not been included in the overall volume of programming.

41. Data by ERR Research Center, retrieved from the ERR Annual Report 2009.

The Development Plan for 2011–2014 underlines the PSB’s role “to shape civic society by framing the public discussion field.” This somewhat passionately phrased aim is to be achieved by providing independent, instant, and comprehensive news “to equip the public with resources for political decision-making,” providing knowledge, and “carrying [a] continuous cultural flow” of facts and experiences.⁴² The plan also emphasizes journalistic quality as fundamental to the public interest.

According to respondents in a credible survey,⁴³ ETV1 was singled out for outstanding programming in political issues and current affairs (according to 54 percent of all respondents) and cultural topics (49 percent). Documentaries (42 percent) and news and sports (39 percent) were also widely commended. These trends were observed as of 2008, according to the survey.

Concurrently, feature films, serials, and especially entertainment were considered to be the specialty of commercial channels. The best entertainment came from Kanal 2 (according to 37 percent of respondents). But the survey also revealed divergent preferences between the Estonian- and Russian-speaking communities, with the latter considering PBK as the best channel for all genres.

The quantity and quality of the output of news and current affairs have not changed significantly over the last five years. The most significant change was the launch by the ERR of the online news service Uudised.err.ee in 2006, which helped boost the share of news and information in the total output of the broadcaster.

Table 11.

Share of news and current affairs programs on ETV and ETV2 (%), 2005–2010

ETV	2005		2006		2007		2008		2009		2010	
	Hours	%	Hours	%	Hours	%	Hours	%	Hours	%	Hours	%
News	532	8.2	533	6.1	526	6.0	546	6.2	444	5.1	448	5.1
Online text news on screen	0.0	0.0	1,767	20.3	1,797	20.5	1,702	19.4	2,115	24.1	2,054	23.4
Information	449	6.9	463	5.3	575	6.6	548	6.2	557	6.4	535	6.1
Factual	674	10.3	707	8.1	888	10.1	720	8.2	878	10.0	661	7.5
Total no. of hours	6,523	100	8,706	100	8,760	100	8,784	100%	8,760	100	8,760	100
ETV2	n/a						Hours	%	Hours	%	Hours	%
News							0	0.0	143	1.6	166	1.9
Online text news on screen							2,730	77.8	5,943	67.8	4,621	52.8
Information							11	0.3	182	2.1	314	3.6
Factual							2	0.1	274	3.1	480	5.5
Total no. of hours							3,509	100	8,760	100	8,760	100

Source: ERR

42. “Eesti Rahvusringhäälingu arengukava 2011–2014” (Development Plan for Estonian National Broadcasting 2011–2014), adopted by the Council of National Broadcasting on 2 March 2010, at http://err.ee/files/ERR_arengukava_2011-2014.pdf (accessed 10 March 2011).

43. Turu-uuringute AS, “Meedia 2010,” audience survey of the population aged 15–74, conducted at the request of ERR, at http://err.ee/files/Uuringud_Eesti_elanike_meediauuring2010.pdf (accessed 14 March 2011) (hereafter, Turu-uuringute AS, “Meedia 2010”).

The newscasts provide a generalist choice of news. Qualitatively, there has been no notable change in the ETV's news offer in recent years. The newsroom employs several local reporters across the country but only three permanent reporters abroad (in Brussels, Moscow, and the United States; reporters are planned for Helsinki (by 2013) and Berlin (2014)).⁴⁴ ETV2 provides news in sign language (for those with hearing disability) and in Russian. The night slots have been filled by online text. As ETV2 does not have a 24-hour schedule, the share of these text-news services is relatively large.

As ERR does not include advertising in its broadcasting output,⁴⁵ the commercial competition does not immediately influence its day-to-day operations. Hanno Tomberg, a member of ERR's management board, says that competition has had no influence on ETV's programming choices.⁴⁶ According to him, ongoing market fragmentation requires the PSB to find ways to reach minorities and various interest groups. However, the annual Development Plans says little about how to achieve this. The Plan for 2011–2014 suggests developing a daily bilingual tele-novella by 2013.⁴⁷ The Plan for 2012–2015 assigns the date for the tele-novella to 2014, expanding its aim to include bringing together national groups and increasing social cohesion.⁴⁸ Only the Development Plan for 2012–2015 addresses “minorities and various interest groups” more broadly: “offering prompt and daily useful information about life in Estonia, and opportunities for interactive debate on lively issues in the Russian language.”⁴⁹ For this as yet modest ambition, the Plan envisages the following activities:

- to consolidate and unify the daily Russian-language program zone on ETV2 (by 2012) across the week
- to launch a weekly review in Russian (by 2013)
- to broadcast annually at least 250 hours of original programs in Russian
- to provide programs on ETV2 with optional subtitles and add topics relevant to the Russian audience
- to decide upon further developments for Russian programming

The Development Plan for 2013–2016 remains quite general about the issue, stating that “there is a continual need for efforts to make the Estonian media space acceptable also for the Russian-speaking community,” and indicating that “programs with Russian subtitles, the Russian online news service, Russian television news and some Russian-language television debates shall continue.”⁵⁰ A new emphasis has been put on online

44. “Eesti Rahvusringhäälingu arengukava 2012–2015” (Development Plan for Estonian National Broadcasting 2012–2015), adopted by the Council of National Broadcasting on 2 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 20 February 2013).

45. According to the National Broadcasting Act, Article 11, ERR shall not transmit advertising and teleshopping and shall not receive support from sponsorship, except with the approval of the National Broadcasting Council in cases related to the broadcasting rights of international major events acquired via the European Broadcasting Union, or cultural or sports events of significant public interest.

46. Email interview with Hanno Tomberg, member of the ERR management board, 11 March 2011.

47. “Eesti Rahvusringhäälingu arengukava 2011–2014” (Development Plan for Estonian National Broadcasting 2011–2014), adopted by the Council of National Broadcasting on 2 March 2010, at http://err.ee/files/ERR_arengukava_2011-2014.pdf (accessed 10 January 2013).

48. “Eesti Rahvusringhäälingu arengukava 2012–2015” (Development Plan for Estonian National Broadcasting 2012–2015), adopted by the Council of National Broadcasting on 2 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 10 January 2013).

49. “Eesti Rahvusringhäälingu arengukava 2012–2015” (Development Plan for Estonian National Broadcasting 2012–2015), p. 26, adopted by the Council of National Broadcasting on 2 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 10 January 2013).

50. “Eesti Rahvusringhäälingu arengukava 2013–2016” (Development Plan for Estonian National Broadcasting 2013–2016), p. 17, adopted by the Council of National Broadcasting on 27 February 2012, at http://err.ee/files/ERR_arengukava_2013-2016.pdf (accessed 10 January 2013).

environments, enabling interactive discussions in Russian. All the plans have usually been implemented in accordance with (rather meager) financial resources, as prescribed in the National Broadcasting Act.⁵¹ Additional financing needs to be provided for these plans to be fulfilled.

2.1.2 Digitization and Services

Digitization allowed ETV to launch its second channel in 2008. ETV2 started with transmissions from the Beijing Olympic Games. After this, the channel served as a children's program outlet with various shows from the archives (as there was no sufficient funding added to develop and maintain fully original programming). In this role—as a channel of children's programs—ETV2 has already established its importance. Although in 2009 Russian-language programming was transferred to ETV2, the channel retained a focus on children. The audience survey of media consumption for 2010 indicates that 11 percent of respondents cited ETV2 as the best provider of children's programs.⁵² This was a lot compared with ETV2's ratings of 0–3 percent for other genres. However, by the time the survey was carried out, the channel had already cut its children programming.

Instead, according to the evaluation by the PSB management,⁵³ ETV2 has diversified its programming and that of ERR as a whole. Archived programs in niche genres such as original television theater have been given a wider audience platform compared with their original broadcasts. At the same time, the channel is credited with serving niche interests primarily through documentaries and alternative feature films targeted at specific audiences.

As indicated in section 1.3.1, ERR launched an online news service in 2006, Uudised.err.ee (in Estonian), which was shortly followed by services in Russian and English. Uudised.err.ee serves as a reliable, though not exclusive, source for commercial radio news output.

It provides general news and information in several specific areas (science, elections, sports, etc.). The Development Plan envisages that ERR's online presence will have an educational as well as informational role.⁵⁴ ERR also intends to develop its websites as parallel supplementary resources to radio and television programs, in order to enable both linear and non-linear consumption and provide accessible archives of its content. The economic recession forced ERR to improve the structure of the portals' editorial units, making the output compatible in Estonian and Russian languages.⁵⁵ In fact, the English portal is the only daily news source about Estonia in that language.

51. "Public Broadcasting shall transmit programs which, *'within the limits of the possibilities of Public Broadcasting, meet the information needs of all sections of the population, including minorities'*" (Article 5, section 1, subsection 8; emphasis added).

52. Turu-uuringute AS, "Meedia 2010."

53. Email interview with Hanno Tomberg, member of the management board, 11 March 2011.

54. "Eesti Rahvusringhäälingu arengukava 2012–2015" (Development Plan for Estonian National Broadcasting 2012–2015), adopted by the Council of National Broadcasting on 8 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 10 March 2011).

55. ERR Annual Report 2009.

Table 12.
Breakdown of ETV and ETV2 programming by genre (%), 2011

Genre	ETV	ETV2
News	5.4	1.9
Online text news on screen	24.7	47.3
Information	5.8	3.5
Factual	8.4	5.1
Culture, education, science, religion	6.9	10.9
Infotainment	11.3	1.7
Sports	3.4	1.6
Music performances	3.2	3.7
Entertainment	5.1	2.7
Fiction	22.8	19.4
Self-advertising, sponsorship, and other	3.0	2.2
Total no. of hours	8,760	8,760

Source: ERR Annual Report 2011

2.1.3 Government Support

State funding of PSB increased between 2006 and 2008 as a result of the Estonian National Broadcasting merger in 2007, which provided for the launch of ETV2. However, the economic recession resulted in a 10 percent reduction in state funding, and a 16 percent fall in ERR's total income between 2008 and 2010.

According to the evaluation by the ERR management board, the state has in no way affected the independence or diversity of the PSB service. The content-related decisions have been made by the statutory organs of ERR. No legal advantages or privileges have been offered to the PSB to develop digital services. On the contrary: according to an evaluation by Andres Jõesaar, a former chair of the National Broadcasting Council, the private channels were offered more favorable terms for digital switch-over. In particular, the broadcasting license fees for television broadcasters were waived, and the new digital channels (TV 6 and Kanal 11) were granted licenses for free.⁵⁶ This waiver was justified on the basis that digital programming can be disseminated by cable, IPTV, and satellite—without employing terrestrial networks.

2.1.4 Public Service Media and Digital Switch-over

Digitization has caused television audience fragmentation even among Estonia's relatively small population. Nevertheless, the combined audience reach of the PSB television channels (ETV and ETV2) has increased since digital switch-over, as was clearly seen in 2012, while that of the major private broadcasters (Kanal 2,

56. A. Jõesaar, "Raha vs. vaadatavus: Eesti telemaastik 2010" (Money vs. Viewership: Estonian TV Landscape 2010), in *Eesti Akadeemilise Ajakirjanduse Seltsi aastaraamat 2009/2010* (Yearbook of the Academic Society of Estonian Journalism 2009/2010), Tartu Ülikooli Kirjastus, Tartu, 2011, p. 112 (hereafter, Jõesaar, "Raha vs. vaadatavus").

Kanal 11, TV 3, and TV 6) has decreased.⁵⁷ While it is too early to make further assessments of the impact of digital switch-over, it may be surmised that ETV's sudden increase in popularity is related to its perceived professional standards, the public appetite for serious reporting and analysis of the economic crisis and its impact, and the funding challenges facing commercial broadcasters, which affect the quality of their news output.

2.2 Public Service Provision

2.2.1 Perception of Public Service Media

Although ERR was legally constituted as a public institution in 1994, and the concept of public broadcasting was introduced in 1989, ERR and its entities—radio and television—are still often referred to as “state broadcasting” (television, radio). Linguistic distinctions apart,⁵⁸ the broader concept of public service broadcasting may seem unfamiliar to the general public. Even politicians in parliamentary debates at times refer to “state television.” Media coverage and media reports also tend to adopt this term. The notion of state over public broadcasting is further underlined by the fact that ERR is funded directly from the state budget and there is no license fee payable by viewers.

The television analyst, recent chair of the National Broadcasting Council, and former Director General of ETV, Hagi Shein, recommends that ERR should find allies for improving the image of public media and for having spokespersons besides the ERR employees themselves. ETV seemed to be successful in this during the “rule” of Ilmar Raag (2002–2005), but ERR's management has since lost many of its allies, according to Mr Shein.

The journalist Andres Laasik, on the other hand, underlines the necessity to reach younger generations, as has been achieved by the Finnish public broadcaster, Yleisradio (YLE).⁵⁹ According to the 2010 research, trust in ERR was the highest among the over-60 age group (the number of respondents “fully trusting” among this group exceeds more than twice the number in the 15–19 age group). Also, ETV is relatively more valued in all genres by people with higher education.⁶⁰

2.2.2 Public Service Provision in Commercial Media

Under Estonian legislation the only type of media regulated by law is broadcasting. No content prescription applies to print media or the internet.

57. H. Tomberg, “Kas digipööre oli edukas?” (Was the Digi-turn Successful?), *Postimees*, 18 January 2011.

58. The prefix “riigi-” (state) sounds shorter and sharper in Estonian than the longer “avalik-oiguslik” (public), despite its recent abbreviation to “avaoiguslik.”

59. A. Laasik, “Vajatakse nooruslikku arengukava” (A Youthful Development Plan Needed), *Eesti Päevaleht*, 17 March 2011.

60. Turu-uuringute AS, “Meedia 2010.”

A news quota of 5 percent of total programming applies both to commercial radio and television services, although exceptions can be made for thematic channels (music, film, or sports). Commercial television channels are also obligated to ensure that 10 percent of their monthly output consists of their own original productions and at least half of this is transmitted during prime time between 7 p.m. and 11 p.m. (again, with exceptions for thematic channels). Furthermore, news, sports events and games, advertising, teletext services, and teleshopping cannot be included in the quota.⁶¹

Commercial radio and television outlets are also obliged, like the PSB, to immediately and without charge transmit emergency notices, which may include official announcements by Parliament, the president, and the government in the event of threats to national security or constitutional order; or information that is necessary to protect human lives, health, and security or to prevent material damage or danger to them, as well as for the prevention or reduction of environmental damage.⁶²

2.3 Assessments

As has been underlined by Mr Jõesaar, digital switch-over primarily embraces a quantitative dimension: making frequency resources usage more effective, freeing up part of the analog resource for broadband communication facilities, and concurrently extending the number of channels for television as well. However, this has not corresponded to a qualitative change in PSB output.⁶³ The official documents of ERR indicate that the public broadcaster has been underfinanced and needs additional professional resources.⁶⁴ Thus, much of the PSB output springs from the enthusiasm of the broadcaster(s).

Nevertheless, the launch of ETV2 in 2008 has provided opportunities for the PSB to develop a more diverse package of television programs. ETV2 addresses smaller and more specific audiences, providing Russian-language programming, shows for children, and programs about science, education, and culture.⁶⁵ Launching online news services in Russian and English has also enabled the furthering of public service goals through multimedia and non-linear services.

With respect to measurable indicators, ERR has rather gained than lost from the digitization process.

2012 saw a dramatic rise in ratings for PSB television. This may merely be the result of a short-term effect of the economic recession on television consumption. Alternatively, it may yet prove to mark an enduring trend.

61. Media Services Act, Article 8.

62. Media Services Act, Article 18.

63. Jõesaar, "Raha vs. vaadatavus."

64. As assessed in "Eesti Rahvusringhäälingu arengukava 2012–2015" (Development Plan for Estonian National Broadcasting 2012–2015), adopted by the Council of National Broadcasting on 8 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 10 March 2011).

65. "Eesti Rahvusringhäälingu arengukava 2012–2015" (Development Plan for Estonian National Broadcasting 2012–2015), adopted by the Council of National Broadcasting on 8 February 2011, at http://err.ee/files/Arengukava_2012-2015.pdf (accessed 10 March 2011).

The structural reform of ERR in 2007 also brought clarifications in the law about the remit and functions of the PSB. However, the elaborated functions include those to be performed in the case of additional financing, e.g. programming for minorities. The digital switch-over in 2010 was purely technical and imposed no additional legal content obligations on ERR.

3. Digital Media and Society

3.1 User-Generated Content (UGC)

3.1.1 UGC Overview

The majority of Estonia's 10 most popular websites provide users with at least one, but usually several, opportunities for user-generated content (UGC) creation (see Table 13).⁶⁶ Only the most popular search engines like Google.com, Google.ee, and the e-bank service by Swedbank provide no UGC opportunities.⁶⁷

Table 13.
The 10 most popular UGC websites, January 2013

Website	Ranking	Type of site	User information for Estonia
Facebook	3	International social network	508,500 users*
YouTube	4	Sharing and uploading videos	n/a
Wikipedia	8	A free collaboratively built encyclopedia	n/a
Vkontakte	9	Russian social network	n/a
Blogspot	11	Blogging platform	n/a
Odnoklassniki	12	Russian social network	n/a
LinkedIn	27	International social network	n/a
LiveJournal	34	Blogging platform	n/a
WordPress	41	Microblogging site	260,994**
Twitter	43	International microblogging site	n/a

Notes: * Facebakers.com; ** Quantcast.com; n/a: not available

Source: Alexa.com, 21 January 2013

66. See <http://www.alexa.com> (accessed 18 January 2013).

67. See <http://www.alexa.com> (accessed 18 January 2013).

The most popular social media websites in Estonia, i.e. sites that are exclusively user-created are Facebook, YouTube, Wikipedia, and a social networking site, Vkontakte, which is intended for Russian-speaking individuals.⁶⁸ The other most frequently visited websites in Estonia are run by established media such as Delfi.ee and Postimees.ee.⁶⁹ The former is the biggest online news and entertainment website, which also offers a variety of UGC opportunities to engage in civic journalism, comment on news stories, and participate in forum discussions, online dating, and chat-rooms.

Postimees.ee is an online version of the daily *Postimees*, offering online business news, foreign news, entertainment, sports, and other news that users can comment upon. The seventh-ranked most popular website according to Alexa.com is Mail.ru portal,⁷⁰ the largest free e-mail service for Russian-speaking individuals. In addition to providing a personal e-mail account, it offers an opportunity to upload photos, videos, and files, keep a blog, as well as to socialize via instant messaging, create a social network profile, and play online games.

3.1.2 Social Networks

The results of the “MeeMa Survey” indicate substantial differences in the Social Networking Site (SNS) preferences of Russian- and Estonian-speakers. Facebook is currently the most popular site among Estonian speakers (attracting 83 per cent of Estonian-speaking social media users).⁷¹ In fact, with 508,500 users, almost 40 percent of Estonia’s population (and 51 percent of those with internet access) has a profile on Facebook.⁷²

The second most important SNS among Estonian-speaking internet users was Orkut.com (27.5 percent).⁷³ The most popular SNS among Russian speakers was Odnoklassniki.ru (ranked 12th on Alexa.com), used by 80 percent of the sample, and Vkontakte.ru (9th on Alexa.com), with 75 percent having a profile there.⁷⁴ Both of these sites are strongly oriented toward the Russian-speaking community and have become immensely popular in Russia and other Eastern European countries.

The findings of the MediaCom survey from 2010 indicate that both Estonian- and Russian-speaking Facebook users are motivated to use the site to keep in contact with their friends.⁷⁵ A comparative analysis of Facebook user practices of the Estonian- and Russian-speaking communities suggests that the Estonian speakers engage in a wider variety of practices. For instance, compared with the Russian-speaking Facebook users, Estonian-speaking users (49 percent) were more likely to regard the site as an important platform for obtaining information, rather than just a resource for social activity. They are also more active in joining

68. See <http://www.alexacom> (accessed 18 January 2013).

69. See <http://www.alexacom> (accessed 18 January 2013).

70. See <http://www.alexacom> (accessed 18 January 2013).

71. “MeeMa Survey,” database.

72. See <http://www.facebakers.com> (accessed 21 January 2013).

73. “MeeMa Survey,” database.

74. “MeeMa Survey,” database.

75. P. Kuppenko and T. Ülesoo, *MediaCom Survey report*, Tallinn: MediaCom, 2010 (hereafter, Kuppenko and Ülesoo).

communities and the web pages of institutions, brands, and organizations (47 percent), or taking part in social media marketing campaigns (40 percent).⁷⁶

The MediaCom survey suggests that people are motivated to join specific SNS communities and fan pages of organizations and companies when they consider the information provided on these pages interesting enough (56 percent), when the theme or topic under discussion in that community is aligned with their interests or hobbies (48 percent), or when the page itself is entertaining and full of interesting information (46 percent). Merely expressing an opinion about the organization or brand, however, is not a strong motivation (24 percent).⁷⁷

In recent years, the spirit of digital activism has been growing. According to the “MeeMa Survey” results, 11 percent of social media users have made a post, commented, or asked questions about a theme related to politics or politicians; and 23 percent of social media users have invited their “friends” to join a civic engagement initiative or community.⁷⁸ Nevertheless, it has been noted that not all users of such communities are active; rather, their involvement in the SNS is mostly passive and referential—more a presence than actual engagement.⁷⁹

3.1.3 News in Social Media

The analysis of the most often visited UGC sites among Estonians indicates that they engage in UGC on SNS, where there is a need to fill in pre-given formats, but they are also quite active in producing content on personal blogs, which require and enable their users to employ more creative skills and freedom. For instance, the Fabulous Journalism Award for 2010 was awarded to Daniel Vaarik for an analysis on his blog Memokraat. The article was about the controversy surrounding the construction of the monument in Tallinn dedicated to the victorious Estonian War of Independence (see section 4.3.2).⁸⁰

According to the findings of a recent Eurostat survey, 91 percent of Estonian internet users used the net in 2012 to read online news and newspapers.⁸¹ Furthermore, the “MeeMa Survey” found that 35.9 percent of social media users have become accustomed to posting links to news stories, commenting on news, or posing questions about the news they have read on their SNS profiles. In comparison with the youngest age groups, who are most active in commenting and sharing news on social media (45.4 percent of 15–19-year-olds; 44 per cent of 20–29-year-olds), this activity is much less popular among older social media users (20.8 percent of 45–54-year-olds, and 15.4 percent of 55–64-year-olds).⁸²

76. Kuppenko and Ülesoo.

77. Kuppenko and Ülesoo.

78. “MeeMa Survey,” database.

79. V. Kalmus et al., “Mapping the terrain of ‘Generation C’: Places and Practices of Online Content Creation Among Estonian Teenagers,” *Journal of Computer-Mediated Communication*, 14(4) (2009), pp. 1257–1282 (hereafter, V. Kalmus et al., “Mapping the terrain of ‘Generation C,’” 2009).

80. “Oivalise ajakirjanduse preemia pälvis Daniel Vaarik” (Prize for Excellent Journalism Awarded to Daniel Vaarik), Postimees Online, 21 October 2010, at <http://www.postimees.ee/?id=329848> (accessed 10 December 2010).

81. More than half of internet users post messages to social media. See http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/4-18122012-AP/EN/4-18122012-AP-EN.PDF (accessed 21 January 2013).

82. “MeeMa Survey,” database.

In addition to commenting on news on social media platforms, various studies suggest that Estonia also has a thriving culture of newspaper commenting. Young people in particular participate in this actively: 82 percent of students read comments on online news at least sometimes, and 43 percent comment on news.⁸³ Furthermore, most of the students (71 percent) believe that the value of comments lies in the discussion and debate they initiate, while 41 percent agree that comments help them to understand the news better.

Estonian citizens are also launching news websites that are solely based on citizen journalism. For instance, a non-profit-making association Estonian Civic Journalism Society (founded in 2010) launched an information portal [Kylauudis.ee](http://www.kylauudis.ee), where people can write their own news stories related to everyday life and events taking place in their county.⁸⁴ A dozen volunteer editors and contributors work for the site, which is visited by 10,000 unique users per month.⁸⁵ Activists from the non-profit organization Uus Maailm (New World) launched a community radio called Uue Maailma Raadio (Radio of the New World), which broadcasts live once a month.⁸⁶ Hence, at least in this area, UGC has found its place next to the institutionally provided content.

Despite the fact that thousands of households in Estonia make use of information technology for everyday activities and to improve their quality of life, researchers⁸⁷ indicate that people are still not that actively engaged in making use of information technology for the benefit of civil society. Authors of these studies⁸⁸ regard the democratic potential of information and communication technologies in terms of the provision of e-services by both national and local governments to be rather good in Estonia. However, Estonian citizens are not very active in making use of these opportunities. It has been suggested that people are especially reluctant to take part in citizen initiatives, polls, and signing of petitions; participating in online debate and forums; communicating with officials and online records management, and so forth.⁸⁹ Recent studies suggest that young people using social media have become increasingly active in civic society activities compared with older people and those individuals who are not that active in social media;⁹⁰ hence, the statement that only the most active internet users are regularly engaged in e-participation initiatives still holds true.⁹¹

83. V. Kalmus et al., "Mapping the terrain of 'Generation C'," 2009.

84. See <http://www.kylauudis.ee/kylauudis-ee> (accessed 10 December 2010).

85. O. Tammik, "Citizen Journalists Hold Conference," 2011, at <http://news.err.ee/895d0d86-f026-4990-b368-9b26cf8442be> (accessed 28 February 2013).

86. See <http://www.uusmaailm.ee/raadio>.

87. P. Pruulmann-Vengerfeldt, M. Keller, and K. Reinsalu, "Quality of Life and Civic Involvement in Information Society," *Information Society Yearbook 2009, 2010*, at <http://www.riso.ee/en/pub/2009it/#p=1-1-4> (accessed 10 December 2010) (hereafter, Pruulmann-Vengerfeldt et al., "Quality of Life and Civic Involvement").

88. Pruulmann-Vengerfeldt et al., "Quality of Life and Civic Involvement," 2010.

89. Pruulmann-Vengerfeldt et al., "Quality of Life and Civic Involvement," 2010.

90. "Kodanikualgatust toetavad väärtused ja käitumismustrid Eesti elanikkonnas 2011–2012" (Values and Behaviour Patterns which Support Civic Activism amongst the Estonian Population 2011–2012), at http://www.kysk.ee/sisu/10_26918226_Uuringuraport_Kodanikualgatust_toetavad_vaartused_ja_kaitumismustrid_Eesti_elanikkonnas_2011-2012_uuringu_teostaja_Kodanikeuhiskonna_uurimis-ja_arenduskeskus_Tallinna_Ulikool.pdf (accessed 26 February 2013).

91. P. Runnel, P. Pruulmann-Vengerfeldt, and K. Reinsalu, "Estonian Tiger Leap from post-communism to the information society: from policy to practices," *Journal of Baltic Studies*, 40(1) (2009).

3.2 Digital Activism

3.2.1 Digital Platforms and Civil Society Activism

Social media environments, Facebook in particular, have become popular platforms for allowing the general public to express their dislike or show their support of a certain topic.

One of the most famous campaigns of the kind was launched in April 2011 to show support for Andrus Veerpalu, Estonia's twice Olympic 15-km cross-country ski champion after he tested positive for a banned growth hormone. Several Facebook fan communities including "A human-chain to support Andrus Veerpalu," "Andrus Veerpalu is clean," "Backfiring on Estonian media,"⁹² and "We believe Andrus Veerpalu," the last of which was joined by more than 68,000 individuals,⁹³ were created to show support for the athlete. The failure of attempts to clear the disgraced skier's name has not changed the attitude of 62,283 supporters of the Facebook fan community.⁹⁴

92. "Doping Scandal: Are Estonians Sore Losers?." See <http://news.err.ee/sports/afe00ac4-7c65-4af7-b049-2ae325ee6406> (accessed 21 January 2013).

93. "Saksamaa portaal imestab 'Usume Andrus Veerpalu' kommuuni populaarsuse üle" (German portal is surprised at the popularity of the "We believe Andrus Veerpalu" group), at <http://sport.postimees.ee/451574/saksamaa-portaal-imestab-usume-andrus-veerpalu-kommuuni-populaarsuse-ule> (accessed 21 January 2013).

94. "We believe Andrus Veerpalu Facebook community," at <http://et-ee.facebook.com/pages/Usume-Andrus-Veerpalu/194487653920408?sk=info> (accessed 21 January 2013).

Online and offline protests against ACTA

One of the most successful protest attempts generated through social media in recent years has been a protest against the Anti-Counterfeiting Trade Agreement (ACTA). Estonians have protested against ACTA in several ways. For instance, they created various multimodal platforms—e.g. online games⁹⁵ and music videos⁹⁶—that mocked politicians who supported ACTA (such as Prime Minister Andrus Ansip), and actively distributed them through online media. More than 7,200 people signed an online petition against ACTA,⁹⁷ and there were several anti-ACTA communities and events organized via Facebook. For instance, more than 4,300 Estonian Facebook users declared their intention to take part in the anti-ACTA protest in Tallinn,⁹⁸ and more than 2,400 in Tartu in February 2012.⁹⁹ Even though only around 3,000 protesters actually turned up at the event in Tallinn, the protest was named the biggest civic engagement initiative in the history of Estonia since the Singing Revolution (1987–1991).¹⁰⁰

According to a recent study, Estonians are most active in joining single-issue support groups on Facebook, followed by political party support groups, nationalist, feminist, and sexual minorities, environmental and activist movement support groups.¹⁰¹ The most popular online single initiatives so far have been “Down with Tallinn TV—money to kindergartens” (14,414 likes),¹⁰² which demands that the money spent on producing Tallinn TV should be spent on kindergartens; and “A worthy salary for a teacher,”¹⁰³ which supports higher pay for teachers (10,693 likes).

One of the most talked about civic initiatives in Estonia that has made active use of digital technologies has been a campaign called “My Estonia—Let’s do it!”¹⁰⁴ The first event of the initiative, “Let’s do it—Let’s clean Estonia,” took place on 3 May 2008 when more than 50,000 volunteers turned out to collect 10,000 tonnes

95. “Lõbus mäng: Ansip sööb seemneid” (Funny Game: Ansip Eats Seeds), at <http://publik.delfi.ee/news/naljad/lobus-mang-ansip-soob-seemneid.d?id=63899393> (accessed 21 January 2013).

96. “Kuula DJ Fooliumi poliitilist tümakalugu ‘Ansipi ACTA’” (Listen to the political beat-song ‘Ansip’s ACTA’ by DJ Foolium), Õhtuleht online, 13 February 2012, at <http://www.oh tuleht.ee/video/464477> (accessed 21 January 2013).

97. “Ei ACTA-le” (No to ACTA), at <http://petitsioon.ee/ei-acta-le> (accessed 21 January 2013).

98. “ACTA-vastane protest (Tallinnas, Islandi Väljakul, 11.02.)” (Protest against ACTA in Tallinn), at <http://www.facebook.com/events/314029425310101> (accessed 21 January 2013).

99. “ACTA-vastane protest (Tartus 11. veebruaril—ülemaailmne protestipäev)” (Protest against ACTA in Tartu), at <http://www.facebook.com/events/293549444038917> (accessed 21 January 2013).

100. T. Kaukvere, “Protestijad: ‘Poliitikud ei tea ise ka, mis see ACTA on!’” (Protesters: “Politicians do not know themselves what ACTA is!”), 2012, at <http://www.oh tuleht.ee/464341> (accessed 21 January 2012).

101. M.-L. Jakobson et al., 2012. “Populism in the Baltic States,” 2012, is a research project funded by the Open Estonia Foundation and conducted by Tallinn University Institute of Political Science and Governance, and partners. See http://www.oef.org.ee/fileadmin/media/valjaanded/uuringud/Populism_research_report.pdf (accessed 21 January 2013).

102. “Maha Tallinna TV—raha lasteaedadele” (Down with the Tallinn TV—money to kindergartens), see <https://www.facebook.com/mahatv?ref=ts&fref=ts> (accessed 21 January 2013).

103. “Õpetajale vääriline palk” (A worthy salary for a teacher), at <https://www.facebook.com/pages/%C3%95petajale-v%C3%A4%C3%A4riline-palk/140245219403684?ref=ts&fref=ts> (accessed 21 January 2013).

104. See <http://www.minueesti.ee> (accessed 10 December 2010).

of illegally dumped garbage in various parts of Estonia that had been previously located by special Google Earth positioning software for mobile phones and mobile phones with GPS.¹⁰⁵ The “Let’s do it!” campaign spread from Estonia to become one of the fastest growing civic movements in history.¹⁰⁶

After the great success of the first year, in February 2009 the volunteers behind the campaign launched a virtual “happiness bank” (Onnepank.ee) with “the objective to promote non-monetary values, to help people to return to the deeper values.”¹⁰⁷ In order to discuss and exchange ideas on how to improve the neighborhood and the whole country, a series of brainstorming sessions were organized on 1 May 2009. The initiators of the undertaking hoped that the brainstorming sessions would yield at least around a thousand small or large initiatives, leading to an improved quality of life in Estonia. Social media platforms like Facebook, Orkut, and Twitter, but also a project blog and homepage, were used to inform the public, gather ideas, register discussion groups, etc. The IT opportunities presented on the “My Estonia” website were called the “democracy machine” by the organizers, in order to illustrate the idea that they were offering active people and community leaders the chance to continue to engage in the process of solving problems of the greatest importance to the people.¹⁰⁸

All in all, 527 discussion groups (16 of which were only virtual) with 11,800 participants from all over Estonia took place.¹⁰⁹ An additional 17 brainstorming sessions with more than 200 participants were held in 12 different countries around the world (among them Finland, Sweden, Denmark, France, the Netherlands, Luxemburg, the Czech Republic, Georgia, and the United States).¹¹⁰ The initiative received extensive media coverage in Estonia, but also abroad (e.g. news stories were published in World News Network, *The Times*, BBC, *Hindustan Times*, *China Daily*, *Corriere della Sera*, etc.).¹¹¹

The subjects discussed most often during the “My Estonia” brainstorming sessions were further addressed in 10 workshops held all over the country later in 2010. The project website provided the users with an opportunity to see and express support for the ideas and suggestions expressed during the discussion workshops, which were all publicly available in the “idea bank.” The website also holds a “deed bank,” which contains projects and initiatives initiated by the discussion bees and already brought to life. For example, “Let’s do it: job offers”—an exchange site that helps people find temporary jobs or hire somebody—was jointly realized by the leading recruitment website in the Baltics, CV Online, and the “My Estonia” organizing committee. The aim of the initiative is to reduce unemployment and give people the chance to quickly help one another for

105. A. Reigas, “Estonians plan virtual ‘happiness bank’ to fight recession,” AFP, 28 February 2009, at <http://www.minueesti.ee/index.php?lng=en&leht=87,96> (accessed 10 December 2010) (hereafter, Reigas, “Estonians plan virtual ‘happiness bank’”).

106. A bottom-up global movement uniting 96 countries and growing, at <http://www.letsdoitworld.org/news/press-release-bottom-global-movement-uniting-96-countries-and-growing> (accessed 13 January 2013). In 2012, 96 countries and 7 million volunteers around the world participated in the global volunteer action World Cleanup 2012, at <http://letsdoitworld.org> (accessed 21 January 2013).

107. Reigas, “Estonians plan virtual ‘happiness bank’.”

108. See <http://www.minueesti.ee/index.php?leht=88,291&modID=291> (accessed 10 December 2010).

109. See <http://www.minueesti.ee/?&lng=en> (accessed 10 December 2010).

110. “My Estonia brainstorming Session started with 7300 Participants,” press release, 1 May 2009, at <http://www.minueesti.ee/?lng=en&leht=87&mod=arhiiv&artikkel=693> (accessed 20 March 2013).

111. See <http://maps.google.com/maps/ms?ie=UTF8&hl=en&t=p&source=embed&msa=0&msid109033996416148644888.000464af43340accd6a35&ll=21.616579,-2.109375&spn=133.12823,360&z=2> (accessed 10 December 2010).

a short period of time.¹¹² However, it has to be noted that despite the initiative's success in mobilization, no legal action followed the suggestions received through the "idea bank" or brainstorming sessions.

On 7 January 2013, the People's Assembly Rahvakogu (Rahvakogu.ee), an online platform for crowd-sourcing ideas and proposals to amend Estonia's electoral laws, political party law, and other issues related to the future of democracy in Estonia, was launched. The aim of the initiative is to strengthen the role of civic society in politics between the elections, and to stop the politicization of public offices.¹¹³ In the first phase of the initiative the general public can make proposals on the subject as well as criticise and comment on the proposals of others. In the second phase of the initiative a group of analysts will group the various suggestions together and carry out an impact analysis of these scenarios. In the end, the most preferred scenarios will be selected in public meetings and later presented to Parliament by the president of Estonia.¹¹⁴ Within a period of three weeks, the platform was visited 245,324 times, and 1,238 users have logged in to the site to make a proposal or comment on the proposals of others.¹¹⁵

3.2.2 The Importance of Digital Mobilizations

The "My Estonia" project is currently the largest grassroots project (the majority of professionals and specialists from the public, private, and third sectors work as volunteers) to make extensive use of digital media technologies. However, other platforms have been launched to provide users with an opportunity to create content and participate in public policy debate. For instance, due to the need to update online content on a regular basis, the established media have started to make more active use of grassroots journalism. Compared with the year 2004 (when editors-in-chief of Estonian regional papers considered citizens' participation in the news-making process to be insignificant),¹¹⁶ a range of established media organizations now encourage the practice.

Furthermore, previous studies have shown that people with traditionally low political involvement seem to be considerably more e-active on local issues.¹¹⁷ For instance, although Estonians have been found to be relatively uninterested in engaging with traditional media (such as by writing letters to newspapers), they are far more active in commenting on news online than their Norwegian counterparts.¹¹⁸

112. "CV Online and My Estonia launch job exchange site," 12 October 2009, at <http://www.minueesti.ee/index.php?lng=en&leht=87&mod=arhiiv&artikkel=1135> (accessed 10 December 2010).

113. See <http://www.rahvakogu.ee/pages/what-is-rahvakogu> (accessed 21 January 2013).

114. See <http://www.rahvakogu.ee/pages/what-is-rahvakogu> (accessed 21 January 2013).

115. M. Teder, "Rahvakogu külastajate arv kõigub 1500 ja 3000 vahel" (The amount of Visitors to People's Assembly between 1,500 and 3,000), Postimees Online, 21 January 2013, at <http://www.postimees.ee/1110312/rahvakogu-kulastajate-arv-koigub-1500-ja-3000-vahel> (accessed 21 January 2013).

116. S. Laev, "Osalusajakirjandus ja Eesti maakonnalehtede toimetajate hinnang selle praktikate kohta" (Estonian Regional Paper Editors' Opinions about Civic Journalism and its Practices), thesis for Bachelor's degree in journalism, manuscript, Tartu, 2004.

117. K. Reinsalu and M. Winsvold, "Does civic culture influence the use of online forums? A comparative study of local online participation in Estonia and Norway," *Journal of Public Administration and Public Policy* 1(1) (2008), pp. 51–67 (hereafter, Reinsalu and Winsvold, "Does civic culture influence the use of online forums?").

118. K. Reinsalu, "Kohalike omavalitsuste online-foorumite kasutamisest Eestis ja Norras" (Local Governments' Use of Online Forums in Estonia and Norway), *Riigikogu Toimetised* 16 (2007), pp. 88–95; Reinsalu and Winsvold, "Does civic culture influence the use of online forums?"

At the same time, the analysis suggests that the success of digital mobilizations does not solely depend on the fact that there are increasing opportunities to voice one's opinion on the online platforms of various mainstream media organizations. Although the number of platforms which provide e-participation options as well as various civic engagement initiatives has grown over the years, researchers have indicated that UGC opportunities "do not require particular resources but depend mainly on user agency: motivation, creativity and setting one's priorities."¹¹⁹ In other words, potential civic engagement does not merely depend on the availability of various technological devices and platforms, but rather people's motivation, willingness, and interest in contributing their thoughts, suggestions, and concerns are crucial in developing civic culture and society.

3.3 Assessments

Estonia presents an interesting research example as it began to develop a civic culture in parallel with the emergence of virtual communications, and the two are therefore linked to a greater extent than in more mature democracies. Thus, it has been suggested that e-participation is probably more integrated with the notions of democracy and citizenship in the minds of Estonians, where the connection between online and offline political action is weaker compared with other societies, e.g. Norway, where e-participation platforms are viewed as just another alternative for engaging in civic activities.¹²⁰

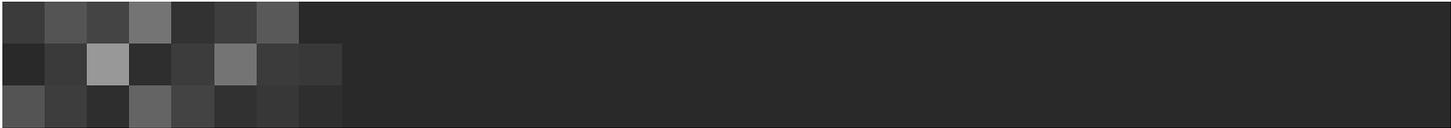
Although various civic initiatives and the internet are becoming increasingly integrated in Estonia, there is a need to distinguish between manifestations of spontaneous democracy and institutional participatory democracy.¹²¹ In fact, the number of people actively involved and willing to engage in the public online debates and participate in developing civic society is still relatively low. Therefore, the analysis of UGC in Estonia suggests that "the existence of space does not in itself affect democratic practices,"¹²² as changes in the values, norms, and thinking patterns of the nation are needed in order for the engagement to be more widespread.

119. P. Runnel, *Transformation of the internet usage practices in Estonia*. Dissertation for the commencement of the degree of Doctor of Philosophy (in Media and Communication), Tartu University Press, 2009, p. 64.

120. Reinsalu and Winsvold, "Does civic culture influence the use of online forums?"

121. Pruulmann-Vengerfeldt et al., "Quality of Life and Civic Involvement."

122. K. Reinsalu, *The Implementation of Internet Democracy in Estonian Local governments*. Dissertation for the commencement of the degree of Doctor of Philosophy (in Media and Communication), Tartu University Press, Tartu, 2009, p. 48.



4. Digital Media and Journalism

4.1 Impact on Journalists and Newsrooms

4.1.1 Journalists

Along with digitization, recent developments in journalists' work have been influenced by the economic recession. Although at the time of writing this report the crisis should be recovering from its lowest point, the economic consequences continue to affect the work of editorial boards through budget cutbacks, dismissals, reduction of output, and cancellation or postponement of costly projects. In short, keeping costs to a minimum has become the default feature of many media business models.

The problems resulting from the low-cost business model of online media have been pointed out *inter alia* by the Supreme Court of Estonia in the case *Vjatseslav Leedo v. Delfi*. Here, the court ruled that media organizations should implement measures sufficient to avoid moral damage not just in articles but also in the comment sections. The Supreme Court indicated that the comment sections are part of the media organization's core content-producing business rather than simply a technical, automatic, and passive service, which is what Delfi had argued.¹²³

This ruling broadens the legal responsibilities of media organizations and consequently adds to the professional burden and range of required skills for journalists. Employers expect journalists trained in the traditional print medium to be able to edit for online publications, and also to edit and set up audio and audiovisual pieces as media output increasingly converges.¹²⁴

The changes in the work patterns of Estonian journalists have not been studied within the last five years, but several studies plot the changes based on surveys conducted in 1988, 1995, and 2009. They tend to indicate that the most significant changes have taken place in the levels of professionalism.¹²⁵ The early 1990s were

123. The Supreme Court Case 3-2-1-43-09 dated 10 June 2009 (*Vjatseslav Leedo v. Delfi*), at <http://www.riigikohus.ee/?id=11&tekst=RK/3-2-1-43-09> (in Estonian, accessed 20 January 2011).

124. Statement by Priit Hõbemägi, the then editor-in-chief of the influential weekly *Eesti Ekspress*, at the public meeting held by the Academic Society of Journalism in Tartu on 21 January 2011.

125. P. Tali, "Eesti ajakirjanike töö iseloomu muutumine, 1988–2009" (Changes in the Character of the Work of Estonian Journalists, 1988–2009), thesis for a Master's degree in journalism, manuscript, Tartu, 2010, at http://dspace.utlib.ee/dspace/bitstream/10062/15841/1/Tali_Piret.pdf (accessed 20 January 2011) (hereafter, Tali, "Eesti ajakirjanike töö iseloomu muutumine, 1988–2009").

characterized by a generational shift: the inflow of young, often inexperienced journalists to the profession as a result of a major restructuring of the industry (departure of older generations of journalists, creation of new jobs, etc.). However, this reign of young and inexperienced journalists (so-called “juvenile reporters”) was curbed by the emergence of a certain degree of professionalization within the sector. By 2009, however, there was again a shortage of senior journalists as digital media provided new opportunities for younger and inexperienced reporters to gain a foothold in the industry. One problem is that this new generation of journalists had limited capacity to see events through the prism of recent history that they themselves had witnessed.¹²⁶

With regard to the organizational changes, editorial offices in Estonia tend to be editor-centric and heavily supervised. The journalists’ workloads seem to be high, while their freedom of choice is limited. The 2009 questionnaire by Piret Tali revealed that journalists place less importance on the freedom of professional choice than before. The experts interviewed in the study also suggested that transition from the controlled system to independent journalism had a much stronger impact on Estonian journalists than the subsequent technological revolution.

Ms Tali concluded that:

The only significant contribution of the technological revolution seems to be online journalism, which has become the main tool undermining the culture of professional journalism. The new job of a web reporter has made it increasingly easy for inexperienced journalists to enter the profession and created a new wave of juvenile journalists, which is not as numerous as in the 1990s, but still exists. The application of web-based approaches to newspaper-making has left its mark on the traditional quality requirements and customary working practices. ...

The character of Estonian journalism has undergone considerable changes, which have brought about generational differences, with representatives of the pre-revolution generation moving away from journalism and creating a new wave of young and inexperienced web reporters, all of this leading to de-professionalization. The relationships in editorial offices have become more hierarchical and more individualistic, whereas journalists have become less creative.¹²⁷

The dominance of individualistic values in journalists’ self-perception of their role has been confirmed by another study by Maret Einmann.¹²⁸ When asked about the key purpose of their profession, respondents

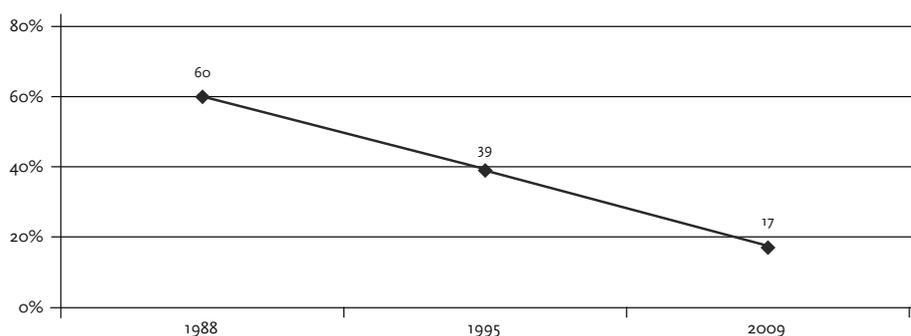
126. U. Loit and H. Harro-Loit, “Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: The case of Estonia,” ELIAMEP, Athens, 2010, at <http://www.mediadem.eliamep.gr/wp-content/uploads/2010/05/Estonia.pdf> (accessed 20 January 2011) (hereafter, Loit and Harro-Loit, “Media policies and regulatory practices”).

127. Tali, “Eesti ajakirjanike töö iseloomu muutumine, 1988–2009.”

128. M. Einmann, “Eesti ajakirjanike rollikäsituse muutumine 1988–2009” (Changing Role Perceptions of Estonian Journalists in 1988–2009), thesis for a Master’s degree in journalism, manuscript, Tartu, 2010, at http://dspace.utlib.ee/dspace/bitstream/10062/15849/1/Einmann_Maret.pdf (accessed 20 January 2011).

in 1988 cited the social role of journalists' work, while by 1995 creative self-realization was seen as the major purpose. When queried about major professional skills in 1995, journalists underlined the importance of morals and ethics, while in 2009 technical (interpretation) skills were seen as being most important. Journalists increasingly define their societal role in a pragmatic way—as just another way to make a living. The increasing individualism of journalists and identification with their employing company rather than with the profession in general are reflected in declining trade union participation.

Figure 5.
Participation in the Journalists' Union (%), 1988, 1995, and 2009



Source: Tali, “Eesti ajakirjanike töö iseloomu muutumine, 1988–2009”

The study by Maret Einmann revealed several role conflicts; in particular, the journalists' professional values and the interests of the organization were often found to be in conflict. Above all, these role conflicts were evident in relation to *online* media; the journalists noted that their work was negatively influenced by group pressure or a compulsion to work faster, more productively, and to offer more stories that “sell,” while at the same time compromising on professional standards. A new type of pressure has been identified as the “click value” of news items—the value defined by a particular item's number of visitors, often leading to flawed editorial decisions and generating misleading or distorted headlines. However, Einmann concludes, journalists treated the limitations to their autonomy as normal.

The output of major television channels demonstrates that changes in this mode of production sphere have not yet led to extensive changes in journalists' work—except for in their use of professional equipment which in the past was the job of technicians—as digital television has not yet launched most of the services enabled by the digital switch-over (e.g. interactive services, subtitling, providing live translation, etc.).

4.1.2 Ethics

Expanding online news presents a challenge to professional journalism. The possibilities of unlimited space mean that online journalists have to produce several news items per day, forcing them to rely on more readily available sources of information such as PR material, promotional writing, translations of other online information services, and so forth. The colonization of online news content by PR material is part of a wider

social practice, but in the context of expanding online publishing possibilities, it is important to estimate how much original, professional journalistic input is provided by media organizations.¹²⁹

Several media organizations, including television stations, have launched sections of “public” or “citizen” journalism, items of which sometimes appear in the mainstream news. In this context, the new definition of a journalist (or an editor) has yet to be articulated: to what extent should the editor be engaged in the news flow created by the audience—editing, verifying, and upgrading it. As the Supreme Court case *Leedo v. Delfi* has established (see section 4.1.1), the media organization has to take responsibility for these public postings in their digital environment, but further implications of this remain to be seen.

The Estonian Journalists’ Code of Ethics,¹³⁰ adopted in 1997, has so far not been amended to reflect online journalism. In several aspects the code is also applicable to digital output, but in many respects it does not deal with online specifics. As the code imposes certain responsibilities both on journalists and media organizations, it would be reasonable to expect the same allocation of obligations in the case of digital media.

The pressure from the *Leedo v. Delfi* case helped to finalize the implementation of the notice-and-take-down policy relating to internet commentary sections. This policy relies on readers to report on comments that are off-topic, offensive, or advertising-related, which subsequently have to be removed by the website owner.¹³¹ However, this measure does not always work effectively or promptly, especially in cases of large numbers of comments.

Members of the Newspaper Association adopted an agreement about the extent of reasonable quoting of online news items among themselves. When adopted in 2005, this agreement limited the extent of reasonable and justified quotation to five sentences. In 2009, the limit for direct reproduction was cut to one sentence in addition to the headline. This limitation caused some dispute among media managers. Some (e.g. Igor Rõtov, the director general of the business daily *Äripäev*) argued that the news needed to flow freely and the corresponding business models should support it. Others (e.g. Erik Roose, the director general of the daily *Postimees*) insist on respecting the copyright of the news item, which should protect the channels producing the news themselves from those who only take advantage of others’ work.¹³²

129. A. Balčytienė and H. Harro-Loit, “Between reality and illusion: Re-examining the diversity of media and online journalism professionalization in the Baltic States,” *Journal of Baltic Studies* 40(4) (2009), p. 517.

130. See, e.g. http://www.asn.org.ee/english/code_of_ethics.html (accessed 20 January 2011).

131. This principle has also been adopted by the council of the Estonian Newspaper Association (30 October 2008).

132. Cited in “Rõtov: Delfi näitas Postimehe nõrkust” (Rõtov: Delfi Revealed Weakness of *Postimees*), a news item by *Äripäev*, 29 June 2009, based on the talkshow “*Pressiklubi*” on Radio Kuku.

4.2 Investigative Journalism

4.2.1 Opportunities

As investigative journalism represents a substantial element of the overall quality of journalism, its occurrence indicates the general health of the news media. However, despite foreign investment since the late 1990s, there has been, as Peter Gross has put it, no sign to confirm “that the Eastern European media outlets that came under Western European ownership have in any way measurably improved their journalism.”¹³³

The restrictions set by economic circumstances tend to discourage the development of investigative journalism. Exposés are often the result of political leaks (often deliberate), rather than the result of enterprising journalism. Few journalists, mainly in weeklies, have the resources (including time and finances) to deal in depth with certain topics and dig out issues that have not yet been leaked to the press. Here, the speed and volume of the news flow in the new digitized media serve more as an obstacle for investigative journalism than an advantage.¹³⁴

However, the means and tools created by digitization have also improved the work of journalists. The public electronic databases enforced by law (e.g. the commercial register, the register of real estate, etc.) and the public document registers of all state municipal and public institutions have greatly facilitated journalistic investigation and data verification processes, as these can be done around the clock and with minimum restrictions. If some of the information is provided for a fee (e.g. in the commercial register), payment is enabled via e-banking.

The commercial register provides public data about legal entities—for example, the names of board members, the bylaws, annual reports (also submitted electronically). Some journalists regularly screen the electronic register of the correspondence of ministries and other state bodies to gather information and find angles and leads for coverage.

Internet searches also prove effective for background research, but they can also be treacherous as many online data require additional verification, as the information may be out-of-date, deliberately false, or in other ways confusing.

4.2.2 Threats

Threats to investigative journalism derive more from the small size of the media market in Estonia and related economic issues than from any political interference. The government in Estonia often tends to withdraw even in cases where state involvement is needed (as in cases of noncompliance with the provisions of the law, broadcasting license conditions, or good practice).¹³⁵

133. P. Gross, “Between Reality and Dream: Eastern European media transition, transformation, consolidation, and integration,” *East European Politics and Societies* 18(1) (2004), p. 125.

134. See U. Loit, E. Lauk, and H. Harro-Loit, “Estonia: Fragmented accountability,” in T. Eberwein et al. (eds) *Mapping Media Accountability—in Europe and Beyond*, Herbert von Halem Verlag, Köln, 2011.

135. Results of research by the Institute of Journalism and Communication at the University of Tartu under the Framework Seventh project, *Mediadem*, in 2010. See U. Loit and H. Harro-Loit, “Media policy in Estonia: Small market paradoxes,” in E. Psychogiopoulou (ed.), *Understanding Media Policies. A European Perspective*, Palgrave Macmillan, Basingstoke, 2012, pp. 87–88.

Thus, limited financial resources ultimately account for the deterioration of investigative journalism in Estonia.¹³⁶ Media organizations cannot afford to have journalists working on particular issues for weeks, given the increasing pressures of daily output production in a saturated and converged media market.

The WikiLeaks cases have produced professional debate about the widespread availability of often classified documents to the public via the internet. Jane Singer¹³⁷ argues that inundation with documents can lead to an overabundance of information, which causes journalists to become confused and lose control of the story, as it tends to obscure the relevance of the leaked items to the public. In Estonia, the leaks have so far resulted in a series of short news items of inconsequential facts rather than generated pieces of investigative journalism. These leaks may also prove to be manipulative, as the sources are less transparent compared with personal communication. The leaks producing subsequent journalistic investigation can also be the result of a manipulative agenda aiming at dissembling other issues or rearranging the focus of investigations.¹³⁸

The media organizations also drew attention to the recently adopted law amending several earlier laws to legally introduce protection of sources and punitive damages in cases of defamation. The criticism of the draft law was heavy, as it envisaged the possibility of requiring journalists to reveal their sources in certain cases, including leaks.¹³⁹ This item was in the end excluded from the law during a parliamentary debate to which media organizations were also invited. The punitive damages were also heavily criticized due to their potential impact on media organizations' economic performance.

Opponents remarked that so far the media had hardly ever been held financially responsible for defamation, and the draft legislation according to which the complainant does not need to provide evidence of moral damage would benefit society. Analysts argued that possible financial damage could be avoided by more rigorous fact checking and editorial evaluation prior to publication—and the size of the damage award would always be within the judges' discretion. With regard to editorial evaluation, the freedom of the press has so far been well preserved.¹⁴⁰

In short, the internet has not resulted in any threats to investigative journalism, except in so far as the online services' business model erodes support for investigative journalism by reducing the available resources (staff, time, funds). As the old business models for journalism have collapsed in tandem with the economic recession, it is hard to assess the prospective impact of online news media development trends on investigative genres.

136. See A. Balčytienė and H. Harro-Loit, "Preserving journalism 2010," in B. Dobek-Ostrowska, M. Głowacki, K. Jakubowicz, and M. Sükösd (eds), *Comparative Media Systems. European and Global Perspectives*, CEU Press, Budapest, 2010, pp. 193–208.

137. J. Singer, "The socially responsible existentialist: A normative emphasis for journalists in new media environment," *Journalism Studies* 7(1) (2006), pp. 2–18.

138. Interview with Halliki Harro-Loit, Professor of Journalism at the University of Tartu, Tartu, 25 January 2011.

139. See, e.g. "National newspapers of Estonia use blank pages to protest against draft legislation on the protection of source information," 18 March 2010, a news item by the Estonian Newspaper Association, at http://www.eall.ee/uudised/2010/18_03_10_2.html (accessed 20 January 2011).

140. See, e.g. "Meediaõppejõud: pole põhjust karta, et kohus hakkab sõnavabadust piirama" (Media Educator: No Need to Fear that Court will Restrain Freedom of Speech), 27 November 2010, a news item by Delfi.ee, at <http://www.delfi.ee/news/paevauudised/eeesti/meediaõppejõud-pole-põhjust-karta-et-kohus-hakkab-sonavabadust-piirama.d?id=35647427> (accessed 20 January 2011).

4.2.3 New Platforms

The amount of investigative journalism done through blogs is insignificant. Some blogs with an analytical approach toward key public issues cover media too. However, entries tend to be few (up to 10 monthly) and limited in scope, often by the same author. Many blogs appear, only to fade away after a relatively short period.

Research of user behavior is in its infancy, so comprehensive statistics on the influence of social media are scarce. The estimated number of active blogs was (as of spring 2010) about 6,500.¹⁴¹ This is less than one year earlier (8,000). The number of entries per week reached 7,300 (a year earlier the number was 10,000). The peak of blogging in Estonia was the spring of 2009. An average blogger in Estonia is a 20-year-old woman. The proportion of men and women among bloggers is 28:72.

In 2010, the influential media owner Hans H. Luik granted his newly established award for “excellence in journalism”¹⁴² for the amount of € 6,400 (US\$ 8,294) to Daniel Vaarik, the creator of the blog Memokraat, which often publishes pieces from other authors too. Mr Luik praised the blog for its good-quality journalism, especially its innovative format.¹⁴³ However, most of the entries in this blog, as in several other serious blogs (e.g. Isekiri.blogspot.com), tend to be well substantiated and well written opinions rather than investigative reporting.

4.2.4 Dissemination and Impact

Digitization by itself has not yet created new practices for the dissemination of investigative journalism, nor has it had any noticeable impact on it. The journalists interviewed for this report noted ambivalent attitudes toward new opportunities.¹⁴⁴ For them, digitization tends to shorten the impact period of investigative reports. As Mihkel Kärmas defined it, the scandal launched by digitally disseminated journalistic investigation “may shine more brightly but it lasts shorter than in traditional media.” Digital (online) formats tend not to accommodate the profundity necessary for investigative reporting and may even prove to be unprofitable if disseminated for free. However, digital publications remain traceable and might provide interactive means for data presentation.

141. Data in this passage about the blogosphere by T. Toots (CEO, Freqmedia OÜ), “Sotsiaalmeedia statistikast” (About Statistics of Social Media), at <http://www.slideshare.net> (accessed 23 October 2010).

142. “Oivaline ajakirjandus” (in Estonian).

143. See “Oivalise ajakirjanduse preemia sai Daniel Vaarik” (Award for Excellent Journalism goes to Daniel Vaarik), a news item by ERR, at <http://uudised.err.ee/index.php?06218026> (accessed 20 January 2011).

144. Email interviews with Tarmo Vahter (30 January 2011) and Mihkel Kärmas (21 January 2011) from *Eesti Ekspress*; Argo Ideon (1 February 2011) and Priit Pullerits (31 January 2011) from *Postimees*.

4.3 Social and Cultural Diversity

4.3.1 Sensitive Issues

Some of the most sensitive social issues to emerge from the Soviet era concern issues of language and nationality, and the consequences of a demographic reshaping of society,¹⁴⁵ which started 70 years ago. While this has not led to major political crises, confrontations between communities do nonetheless emerge occasionally, due to different views of Estonia's past, present, and future. This, as mentioned in several cases in this report, results inter alia in different media consumption patterns and consequently diverse information fields, which do not encourage integration and stability.

Such was the case of the riot by members of the Russian-speaking community in spring 2007 following the relocation of a bronze monument of a Soviet soldier from the city center to a military cemetery (see sections 2.1.1 and 3.1.3). The Soviet period has also left deeply entrenched prejudices toward possible future economic immigration from Russia, on which matter the Human Rights Report for 2011 calls for tolerance.¹⁴⁶

The courts carry no records of hate speech cases. Intolerance toward various minorities (based on sexual orientation, gender, religion, etc.) is, however, a common topic in opinion sections of newspapers. At this time of writing, the Ministry of Justice is drafting a law defining in more detail the substance of hate speech, in line with suggestions from EU institutions. The current law prescribes penalties in the event that the enmity inflicted also directly threatens someone's life, health, or property. According to the draft, penalties may also be imposed when hostility is incited systematically or in a disturbing manner.¹⁴⁷

Such intolerance occasionally also occurs in real life. However, violent collisions do not tend to happen, either in society or in the media.

4.3.2 Coverage of Sensitive Issues

Any kind of discrimination and incitement to hatred, violence, or discrimination is prohibited under the constitution. No further legal regulation regarding the media has been introduced. In most cases this falls under self-regulation practices, such as those introduced by the code of ethics of the Estonian press.

Incitement to hatred, violence, and discrimination are also prohibited in the comment sections of news websites. As a rule, hateful and offensive comments are expurgated. In certain cases, the online services censor comments or closes the thread down.

145. The proportion of ethnic Estonians in the total population fell from 88.1 percent (in 1934) to 61.5 percent (in 1989), while the proportion of Russians, Ukrainians, and other Russian-speaking ethnicities grew almost fourfold during this period: see census data for 1934 and 1989 from Statistics Estonia).

146. K. Käsper and M. Meiorg (eds), *Human Rights in Estonia 2011*, Annual Report of the Estonian Human Rights Centre, Tallinn, 2012.

147. P. Talv, "Justiitsministeerium soovib muuta vaenu õhutamise kuriteoks" (Ministry of Justice Wants to Make Hate Speech a Crime), Ministry of Justice press release, 30 July 2012, at <http://www.just.ee/57068> (accessed 20 February 2013).

The number of cases related to unethical coverage of sensitive issues is too small for general conclusions to be drawn. Public assault (verbal or physical) against any minorities or weaker parties is usually so shocking in Estonia that it gains wide and sometimes sensational media coverage, creating a distorted picture.¹⁴⁸

Minorities have only been mentioned in the Estonian National Broadcasting Act where one of the functions of the PSB laid down is to “transmit programs which, within the limits of the possibilities of National Broadcasting, meet the information needs of all sections of the population, including minorities.”¹⁴⁹ On public television, this has been implemented by allocating a portion of broadcasting in Russian (including a daily newscast). PSB Radio 4 (a Russian-language channel) provides an assortment of programs targeting ethnic minorities in their own languages (Belarusian, Ukrainian, Azerbaijani, etc.). There are also several Russian-language private radio programs, mainly appreciated for their choice of music by the target language group.¹⁵⁰

On the print front, several Russian-language weeklies are published in Estonia, though they tend not to have online versions. The Russian-language national dailies have by and large fallen victim to market competition and have closed in recent years (except for the Russian-language version of *Postimees* and *Den za Dnjom* (Day After Day), a weekly owned by *Postimees*).

4.3.3 Space for Public Expression

The Delfi news website also has a Russian edition. It tends to be valued primarily for its interactive commenting features. The comments in Russian sometimes express heated antagonism toward the state and its institutions, which is rarely found in comments in Estonian.

No innovative technological solutions have been deployed by the mainstream media for enhancing platforms of public expression for minorities. The newscasts and other programming targeted at the Russian-speaking community on ETV2 provides only linear output, and has not yet been formatted as a digital service with optional features (translation either using subtitles or as voice-over).

Thus, digitization has not yet made an impact on media coverage of these issues. However, due to the increasing use of social media, the activists of various minorities do now have access to wider audiences.

148. Interview with Halliki Harro-Loit, Professor of Journalism at the University of Tartu, Tartu, 24 February 2013.

149. Estonian National Broadcasting Act, Article 5, section 1, clause 8.

150. H. Kaldaru, *Eesti elanikkonna meediateemaline arvamusuuring 2011* (Survey of Media-related Opinions of the Estonian Population), omnibus survey by Turu-uuringute AS for ERR, November 2011, at http://err.ee/files/Uuringud_Meediaaruanne_2011.pdf (accessed 10 January 2013).

4.4 Political Diversity

4.4.1 Elections and Political Coverage

Regulation of media coverage of elections has not changed substantially during the last five years. Despite the growth in the number of television channels during the transition to digital, election coverage has not been expanded. Most private television broadcasters do not carry political pre-election debates. ETV, now with two national channels, has not increased the quantity of pre-election debate.

However, the PSB has launched a pre-election website within its online presence to feature a “voter guide” and “monitoring of candidates conduct reports” along with a selection of news items and audio clips.

The recent Media Services Act designed to replace the Broadcasting Act and enacted as of 16 January 2011, limits the requirement of political balance only to the period of the active election campaign, except for the PSB, where political impartiality is a perpetual obligation. The principles of political balance remain the same: “upon granting transmission time to a political party or a political movement to present its position, a television or radio service provider shall also provide an opportunity to grant transmission time in the same program service for other political parties or movements without undue delay.”¹⁵¹ In other words, broadcasters must charge all parties the same fees for the aired programs.

Along with this, the PSB is required to provide rules for reflecting elections in the program services of national broadcasters. These rules are to be approved by the National Broadcasting Council and disclosed up to a week after the date elections have been announced.¹⁵²

Providing an open and pluralistic floor in pre-election debates has been standard practice for several election seasons. The smaller political parties (often not represented in Parliament) and individual candidates have protested that their involvement in the television campaigns has been limited. In 2009, the Estonian Greens contested the in-house rules for resolving pre-election disputes by the PSB, as they could not participate in the debates due to a short candidate list. The courts did not uphold the case as they found the claim ungrounded.

4.4.2 Digital Political Communications

Politicians employ new media technologies in their political communications. They have launched blogs, Facebook, and Twitter accounts as a means of addressing the general public less formally, sometimes deliberately posting comments to attract attention. Media, especially online media, frequently quote these sources.

Sometimes politicians use social media tools to bypass the gatekeepers of the mainstream media. For instance, on the dawn of the general election day in 2011,¹⁵³ Evelyn Sepp MP, having collected over 4,600 friends on

151. Media Services Act, Article 14.

152. Estonian National Broadcasting Act, Article 6, section 5.

153. Elections took place on 6 March 2011.

Facebook,¹⁵⁴ suggested that a rival candidate should “set himself on fire”¹⁵⁵ because of his remarks during a parliamentary debate.

Social media have definitely widened the choice of political sources. At the same time, this information tends to be fragmented, dispersed, and irregular. This information may easily be distorted while being constructed, framed, and mass-circulated by the professional news media.¹⁵⁶ The interest in political discussions has grown slightly, due more to negative trends in the overall political culture (e.g. a government that does not listen to any criticism, muddled financing of the political parties, and so forth) than to the internet or digitization more generally.

4.5 Assessments

Digitization has intensified the workload of journalists, but it has not significantly influenced the quality of output. The internet has undoubtedly improved the information gathering process, but at the same time it has created the burden of greater scrutiny of sources. The posting of mass quantities of raw documents, often classified, may be staged to mislead journalists and the general public.

The output of various online news sites consists of short news items, often based on one longer event or speech, or even a talkshow either on television or radio. The contexts for such news items are often missing, potentially limiting the promotion of understanding and significance of important public interest issues. The self-regulation of online media is still being shaped—the code of ethics and other principles of good practice for the press are being adapted for online application.

Although television broadcasting has technically been switched over to the digital signal, the content of terrestrial programs has not been given any digital characteristics such as on-demand capability. Only some non-terrestrial (not-on-air) communication networks (Elion’s IPTV service or Starman’s digital cable service) have provided a recording option for certain television channels.

The shortcomings of digitally distributed journalism are primarily a result of economic limitations and the relatively small size of the market rather than direct political intervention. Digitization has created some specialized online sites for election coverage by the mainstream media outlets. But despite an increase in the number of digital television channels, there has been no noticeable increase in election coverage and debate. The same can be said about the coverage of marginalized groups. Although digitization provides additional platforms and space for more coverage, the financial and human resources remain the same, or have even been cut because of the economic recession.

154. Standing at 22 March 2011. However, she gained only 416 votes in the elections.

155. See “Evelyn Sepp Tõnis Kõivule: pane ennast põlema” (Evelyn Sepp to Tõnis Kõiv: Set Yourself on Fire), Postimees Online news item, 13 January 2011, at <http://www.postimees.ee/?id=371557> (accessed 20 January 2011).

156. Interview with Halliki Harro-Loit, Professor of Journalism at the University of Tartu, Tartu, 25 February 2013.



5. Digital Media and Technology

5.1 Broadcasting Spectrum¹⁵⁷

5.1.1 Spectrum Allocation Policy

The spectrum allocation policies in Estonia are in line with EU regulations. Spectrum falls under the domain of the Ministry of Economic Affairs and Communications. The direct regulatory body for spectrum-related issues is the Technical Surveillance Authority (*Tehnilise Järelevalve Amet*, TJA), particularly its Electronic Communication Division. The general principles for spectrum allocation have been laid down in the Electronic Communications Act (adopted in 2004). The law envisages the radio frequency allocation plan to “determine the manner, regime and purpose of using radio frequencies,”¹⁵⁸ as laid down by the minister.

According to officials interviewed for this report,¹⁵⁹ a key objective underpinning this plan is the efficient and purposeful use of radio frequencies. In other words, unused spectrum must be minimized. This principle applies also to spectrum licensees, who may for competitive reasons engage in spectrum hoarding. For instance, frequencies have been revoked from Elion after it failed to launch a multiplex for which the spectrum was allocated (see section 5.1.3). This kind of sanction is enshrined in legislation rather than being merely a prerogative of the regulator.

The Radio Frequency Allocation Plan has adopted the principle of technological neutrality since 2005, and the principle of service neutrality as of 25 May 2011. This means that in accordance with the plan, frequencies have been distributed based on neutral functions and purposes, not specifying any particular technology or service type. The digital dividend has produced frequencies both for broadcasting (lower spectral band) and broadband electronic communication services (higher spectral band).

157. By broadcasting spectrum, we refer to the radio frequencies or waves in the electromagnetic spectrum which carry radio (including mobile phone), television, and radar signals.

158. Including the radio frequencies used in Estonia for rescue, safety, and national defense purposes; Electronic Communications Act, Article 9, section 1.

159. Interviews with Tõnu Nirk, head of the Communications Department of the Ministry of Economic Affairs and Communications, and Priit Soom, the head of the Electronic Communication Division of the Technical Surveillance Authority (*Tehnilise Järelevalve Amet*, TJA), Tallinn, 5 April 2011.

There are no political preferences regarding the spectrum allocation policy, according to interview respondents. Currently, the development of mobile communications is regarded as the most promising trend among all options as regards frequency uses that will yield the greatest content value in monetary terms. State aid is not provided to the telecommunications sector and spectrum users pay fees for licenses to be granted and renewed. The fees depend on the type of the license and have been imposed by the State Fees Act.

5.1.2 Transparency

The Electronic Communications Act requires the radio frequencies to be “managed on the basis of objective, transparent, non-discriminatory and proportionate criteria.”¹⁶⁰ A definitive type of tender for spectrum allocations has not, however, been established. The terms for every individual issuance of frequency licenses are to be determined by the Minister of Economic Affairs and Communications on a case-by-case basis.¹⁶¹ A one-off fee may be established for the license issuance (up to € 1,597,000 (approx. US\$2 million)). The deposit required has to be equal for all participants and must not exceed the one-off license fee.¹⁶² The type of tender depends mostly on levels of demand for the frequency in question. Auctions have not yet been employed by the regulator, reflecting a political decision to encourage investment in new communications infrastructure rather than licenses.¹⁶³ The TJA is the body that conducts the tenders.

Regarding digital terrestrial broadcasting, the first three multiplexes were awarded to the broadcasting transmission company Levira under a provision in the Electronic Communications Act.¹⁶⁴ This was a political act to launch the new technology and the company was also obliged to develop the infrastructure to technically facilitate the digital switch-over. However, at that stage there was only muted demand from commercial players for multiplex licenses.¹⁶⁵ The Estonian Competition Authority proclaimed Levira to be a venture exercising a dominant influence on the broadcasting transmission market, and ordered the company to provide greater accessibility for other market participants (e.g. regarding transmission facilities higher than 100 m), non-discriminating service conditions, transparency, and control over prices and costing (a natural monopoly).¹⁶⁶

There is no evidence to controvert the argument that broadcasting spectrum is in general awarded in a transparent and non-biased way (with the exception of a few single isolated cases, where the proceedings may have given grounds to question them, but without setting a precedent of non-transparent spectrum allocation).

160. Electronic Communications Act, Article 8, section 2.

161. Electronic Communications Act, Article 9, section 4.

162. Electronic Communications Act, Article 9, sections 2(2) and 2(4).

163. Interviews with Tõnu Nirk, head of the Communications Department of the Ministry of Economic Affairs and Communications; and Priit Soom, the head of the Electronic Communication Division of the TJA, Tallinn, 5 April 2011.

164. Article 190, section 6.

165. Interviews with Tõnu Nirk, head of the Communications Department of the Ministry of Economic Affairs and Communications; and Priit Soom, the head of the Electronic Communication Division of the TJA, Tallinn, 5 April 2011.

166. Effective as of August 2011. Resolution ref. 05.04.11 No. 8-3-12/11-001, at http://www.konkurentsiamet.ee/public/Aprill_2011_T18_otsus.pdf (in Estonian, accessed 19 April 2011).

5.1.3 Competition for Spectrum

A healthy level of competition is secured by law, and is based on technological neutrality and service neutrality. According to the Radio Frequency Allocation Plan, the frequencies have been distributed based on neutral functions and purposes, not specifying any particular technology or service type. State-run competition management ensures that all service providers have equal access to basic services provided by natural monopolies (such as Levira's broadcasting transmission services).

As mentioned in section 5.1.1, the license for digital broadcasting frequencies (channel 37) was revoked from the telecoms company Elion after it failed to launch a multiplex for which spectrum had been allocated. The channel was issued in early 2009 and a year later, during an inspection, non-employment of the frequencies was established by the TJA. Under the Electronic Communications Act (Article 18, section 3, subsection 1), the license was revoked, as "radio spectrum is a limited resource and there is high public interest in their availability."¹⁶⁷ The above-mentioned clause allows a license to be revoked if the frequencies have not been used for six months.

Both broadcasting and new broadband communication services have benefitted from the digital dividend. Much depends on the prevailing trends in the telecoms sector (especially in the EU) and the regulator's stand with regard to these. Various details, of course, can always be questioned—for instance, whether it might always be in the public interest to have some spectrum resources set aside for future purposes—but these do not detract from the bigger picture, which is one of general adherence to the public interest in spectrum allocation.

5.2 Digital Gatekeeping

5.2.1 Technical Standards

The technical standard for digital broadcasting (DVB-T using MPEG-4 compression) was determined by Levira, the company that was awarded the first three multiplexes to launch digital broadcasting. Some 49 percent of Levira's stocks belong to the state and 51 percent to the French company TDF. State authorities (due to the technological neutrality principle) have not legally determined the standards and, theoretically, any further multiplex operator could choose its own standard.¹⁶⁸

However, this would be impractical as, for one reason, viewers have been equipped with MPEG-4 devices. Levira made this technological decision based on a larger consensus of market partners: the PSB, other broadcasters, etc. The state authorities were also consulted regarding their capacity to maintain a wide-based solution.¹⁶⁹

167. Case description based on email interview with Alo Einla, head of the Radio Frequency Management Department of the TJA, 30 January 2013.

168. Interview with Tõnu Nirk, head of the Communications Department of the Ministry of Economic Affairs and Communications, Tallinn, 5 April 2011.

169. Email interview with Indrek Lepp, Director of the Division of Multimedia Services, 18 April 2011.

As communicated to the general public, MPEG-4 was chosen over MPEG-2 due to its relatively large technical capacity and future adjustability: enabling twice as many channels, possessing higher efficiency, including capability for the soon anticipated utilization of High Definition television and Dolby stereo sound.¹⁷⁰ Estonia was among the first countries to launch the MPEG-4 standard. According to Jüri Pihel, who heads the Government Commission on Transition to Digital Terrestrial Television, other countries can now reap the benefits of Estonia's groundwork.¹⁷¹ Indrek Lepp from Levira pointed out that choosing MPEG-4 enabled the launch of ZoomTV, a terrestrial conditional access network, which would not have been possible using MPEG-2.¹⁷²

5.2.2 Gatekeepers

Access-related problems posed by gatekeepers have not occurred in Estonia, according to the regulator and to the best of our knowledge.¹⁷³

5.2.3 Transmission Networks

As mentioned in section 5.1.2, Levira exercises a dominant influence over the television broadcasting market in view of its natural monopoly as the transmission network operator. As a result, the company's operations are under greater scrutiny by the regulators. In September 2011, after two years of investigation, the Estonian Competition Authority established that Levira had earned unreasonably high profits in the fiscal years 2007/2008–2009/2010 due to offering parallel services both for analog and digital broadcasting. However, the authority established that since digital switch-over, the company's profits had normalized and thus the investigation was concluded without further charges.¹⁷⁴

At an earlier stage in this case, the Competition Authority obliged Levira to disclose on its website the technical conditions for its access services, quality levels, ordering procedures, due deadlines for producing services, and the price components constituting the total price. The Authority prohibited Levira from including infrastructure construction costs in the admission fee, in case the constructed facility remains in Levira's possession and produces a profit in future operations. In December 2011, all the major television broadcasters (ERR, Kanal 2, and TV 3) initiated legal proceedings against Levira in a bid to reclaim the overpayments of service fees (around € 600,000 (US\$ 777,734) each). At this time of writing, the court proceedings are still at the stage of preliminary hearings.

When it comes to the involvement and influence of transmission networks in spectrum allocation, no such cases have occurred.

170. From the FAQ at the official site of transition to digital broadcasting, at <http://www.digilevi.ee/?mis=kkk> (accessed 17 April 2011).

171. Quoted in "Digiteleviioon toob lisakanaleid ja investeringuid" (Digital Television will Add Channels and Investment), Forte.ee, 17 October 2010, at <http://forte.delfi.ee/archive/print.php?id=33211487> (accessed 17 April 2011).

172. Email interview with Indrek Lepp, Director of the Division of Multimedia Services, 29 January 2013.

173. Interviews with Tõnu Nirk, head of the Communications Department of the Ministry of Economic Affairs and Communications; and Prit Soom, head of the Electronic Communication Division of the TJA, Tallinn, 5 April 2011.

174. Ruling by the Estonian Competition Authority on concluding the administrative proceedings invoked upon applications by the Association of Estonian Broadcasters of 7 July 2009, and Eesti Digitaalteleviiooni AS of 19 March 2010, on 16 September 2011, Ref. No. 5.1-5/11-020, at http://www.konkurentsiamet.ee/public/Otsused/2011/o2011_20.pdf (accessed 30 January 2013).

5.3 Telecommunications

5.3.1 Telecoms and News

There is one broadcasting transmission company operating in the digital terrestrial market (Levira) which itself does not produce media content. This was pointed out by KPMG's 2010 report on the digital switch-over in Central and Eastern Europe, noting that Levira functions as a content-neutral distributor causing no pressure on broadcasters' content.¹⁷⁵ The major cable networks Starman and STV also do not produce media content, and nor does the IPTV provider Elion. Their earlier attempts have not proved to be effective (often broadcasting text-TV or flames in a fireplace during periods of dead airtime). This has helped to shore up competition in the broadcasting sector and to preserve the principle of net neutrality in the online sphere.

The Estonian Association of Information Technology and Telecommunications, conjoining the major cable operators, has been lobbying for a reintroduction of the "must carry" principle with regards to free-to-air television programs—to guarantee, for instance, that pay-TV packages include the PSB channels. For these purposes, the association has made legal representations directly to the parliamentary commissions, bypassing the Ministry of Culture, which is accountable for issues related to media content and copyright. The television broadcasters themselves have, however, resisted the motion due to copyright reasons, in order to preserve the right to either allow or forbid the transmission by a particular pay-distributor and to collect royalties for program transmission.

5.3.2 Pressure of Telecoms on News Providers

There have been no cases where cable and telecoms operators have exerted pressure on news providers.

5.4 Assessments

In Estonia, spectrum allocation is in line with EU rules. The law explicitly requires the radio frequencies to be "managed on the basis of objective, transparent, non-discriminatory and proportionate criteria." No cases of political interference in spectrum allocation have emerged.

The spectrum regulation of Estonia has proved to be appropriate for the country. There is a healthy level of competition that is secured by laws, and it is based on technological and service neutrality.

Although the Electronic Communications Act does not mention the "public interest" verbatim, the purpose of the law defined in Article 1 is to "create the necessary conditions for the development of electronic communication to promote the development of electronic communications networks and communications services without giving preference to specific technologies and to ensure the protection of the interests of

175. Cited in "Digiteleviioon toob lisakanaleid ja investeringuid" (Digital TV will Add Channels and Investment), Forte.ee, 17 October 2010, at <http://forte.delfi.ee/archive/print.php?id=33211487> (accessed 17 April 2011).

users of electronic communications services by promoting free competition and the purposeful and just planning, allocation and use of radio frequencies and numbering”—this reference to “users” can be definable as “the public.”

There is nothing to controvert the argument that the legal framework is in line with the EU requirements and aimed at the general good of the public. Also, the regulator in this field is following generally good principles of administration and no major discrepancies have been revealed which would indicate misrule in the sector.



6. Digital Business

6.1 Ownership

6.1.1 Legal Developments in Media Ownership

Media ownership in Estonia has generally not had sector-specific regulation, and this has not changed over the last five years. General rules for concentration and other related matters apply equally to all industries, including the media. The only provision addressing media ownership directly has been embedded in the Broadcasting Act, which was replaced by the Media Services Act, enforced in January 2011.

The regulation imposed an option for the licensing authority (Ministry of Culture) to refuse to issue a broadcasting license in case “a person operating as a television and radio broadcaster or the responsible publisher of a daily or a weekly newspaper would become simultaneously a person operating as a television and radio broadcaster and the responsible publisher of a daily or a weekly newspaper in the territory planned for the broadcasting activity or a part of the territory of Estonia.”¹⁷⁶

Crucially, however, the Broadcasting Act provided only the grounds for refusing to issue a broadcasting license, not for revoking a license. As reported in 2005, monopoly or cartel conditions are not listed as one of the reasons for which a license may be revoked, nor is there any general statement prohibiting concentration in the market.¹⁷⁷ Partly as a consequence of this, significant concentration and cross-media ownership has been allowed to persist since the law was introduced in 1994. One case in particular involves the ownership by the Norwegian company Schibsted of 50–100 percent of several newspapers (including the leading daily *Postimees* and several local papers), 100 percent of a national television station (Kanal 2), and 32 percent of one of the two largest radio businesses (Trio LSL).¹⁷⁸

Another probable cause for the lack of implementation of the cross-ownership rule is its reliance on the voluntary declarations of ownership by the media businesses themselves. Furthermore, the possessions of Schibsted have been registered under different legal entities: Kanal 2 is registered as a property of Schibsted,

176. Broadcasting Act, Article 40, section 4, subsection 8.

177. Loit, *Television across Europe*. Budapest: OSI, 2005.

178. See Loit and Harro-Loit, “Media policies and regulatory practices.”

while *Postimees* is registered as the property of Eesti Meedia. This has allowed the argument that Schibsted's holdings do not exhibit concentration according to the law.

The recent law has not made the regulation any clearer: it stipulates that the broadcasting license (henceforth “activity license”) may not be granted in cases where the applicant is “by means of the governing effect over management connected to the undertaking that has been granted the activity license for provision of television and radio service and this may substantially damage the competition in the media services market, particularly through creation or reinforcement of the dominant position in the market.”¹⁷⁹ Moreover, the provision can still only be enforced in the case of new license applications, and does not provide any grounds for cancellation or non-renewal of existing licenses.

6.1.2 New Entrants in the News Market

There have been no enduring new entrants in the Estonian news market in the last five years. Attempts by outside interests to capitalize on the convergence and proliferation of the Estonian media market have to date ended only in spectacular failure.

In 2008 Kalev Meedia, an affiliate of holdings that include the widely known chocolate factory Kalev and milk-manufacturing company Tere, started its operations in the Estonian media market. Several magazines were purchased, a digital free-to-air Kalev Meedia television channel was launched, another cable channel (Neljas) was purchased, as well as radio station Sun FM (in Tartu and Pärnu), and an internet news site was also added to the service portfolio. Throughout the year the activities were under the scrutiny of competitors: Kalev Meedia did not start advertising sales or otherwise increase its income, whilst running up exorbitant costs.¹⁸⁰ According to some estimates, the owner of the stock company Oliver Kruuda lost € 220,000 (US\$ 285,152) per month in the magazine business, and in total between around €1 million and €1.4 million (US\$1.3 million–1.8 million) per quarter.¹⁸¹ By the first half of 2009 all the media businesses of Kalev Meedia were halted, the company itself was bankrupted, and some 200 employees were dismissed.

6.1.3 Ownership Consolidation

Small markets like Estonia tend not to possess enough resources in terms of the information society to ensure a versatile and thereby superb flow of information. The small size of the market does not favor competition by several media companies, as it causes fragmentation of resources. As Gillian Doyle has put it, “It is possible that a more monopolistic industry structure would yield a greater diversity of media output (content) than would be economically feasible in a more fragmented and competitive industry structure.”¹⁸²

179. Media Services Act, Article 32, clause 3.

180. See “Peeter Raidla: Kalev Meedia oli kui rahapõletusahi” (Peeter Raidla: Kalev Meedia was like a Cash Cremator), *Õhuleht*, 16 January 2009.

181. See “Peeter Raidla: Kalev Meedia oli kui rahapõletusahi” (Peeter Raidla: Kalev Meedia was like a Cash Cremator), *Õhuleht*, 16 January 2009; U. Jaagant, “Kruuda maksis iga kuu ajakirjadele peale 3,5 miljonit” (Kruuda Paid Extra EEK 3.5 million (€0.2 million) to the Magazines), *Eesti Päevaleht*, 14 January 2009.

182. G. Doyle, *Media Ownership*, Sage, London, 2002, p. 17.

While the small scale of the Estonian media sector favors oligopolistic market conditions, media convergence and developing cross-media ownership affect the journalists' job market and thus the level of professional journalism and professional ethics in news production and content. The supremacy of one or two large media concerns might be counterbalanced by effective policy measures that address the public need for balanced and credible information. Existing examples are the news quota obligation imposed on broadcasters, and the Media Services Act, which provides a statutory underpinning for self-regulation of the press (in certain areas such as adverts for food and children's goods). Content regulation, however, may impact negatively on freedom of expression.¹⁸³

Another paradox of the small market concerns a tension between two basic functions of the media in a democratic society: pluralism and integration.¹⁸⁴ Thus, the expansion of channels that might lead to increased choice—but might also decrease the function of the media in promoting a common culture and national identity—is not a significant factor in Estonia, given that the scale of the media market itself limits the proliferation of outlets. However, commercialization and the necessity for cheaper production might make this advantage dysfunctional. Oligopoly can easily turn into monopoly: the balance is vulnerable and fragile.

With respect to the aspects discussed above, no major consolidations of the media market have emerged over recent years. Nevertheless, some changes have occurred, slightly before releasing the current report.

First, newsrooms of the second-biggest daily *Eesti Päevaleht* and the Delfi online service were merged in March 2012, while the legal bodies remained as separate entities. This was due to the fact that Ekspress Group also acquired the rest of the shares in the company publishing the daily. At first, it took some effort to align the different working cultures.¹⁸⁵ The professor of journalism Halliki Harro-Loit pointed out that to produce a qualitative shift as a result of the merger, it would necessitate corresponding investments in professional content production and the development of new (interactive) genres. While the quantitative output is large, perhaps too large, Professor Harro-Loit has as yet not observed any notable implementation of the investments needed to provide the quality shift, whereas the existing media business models have become obsolete.¹⁸⁶

Mr Luik (owner of Ekspress Grupp) claimed at a media policy conference in December 2012 that this merger had not led to the expected economic constraints. On the other hand, he claimed that the merger had helped to spawn synergies between the operations of the two outlets.¹⁸⁷ A full evaluation of this step is, however, not yet possible.

183. U. Loit and H. Harro-Loit, "Media policy in Estonia: Small market paradoxes," in E. Psychogiopoulou (ed.), *Understanding Media Policies: A European Perspective*, Palgrave Macmillan, Basingstoke, 2012, pp. 85–99.

184. K. Karppinen, "Making a difference to media pluralism: a critique of the pluralistic consensus in European media policy," in B. Cammaerts and N. Carpentier (eds), *Reclaiming the Media: Communication Rights and Democratic Media Roles*, Intellect Books, Bristol, 2007, p. 15.

185. T. Tammeorg, *Koosolekukommunikatsiooni analüüs Eesti Päevalehe näitel võrdluses Irish Timesiga* (Analysis of communication at the meetings in *Eesti Päevaleht* compared to those in *The Irish Times*), thesis for Master's degree in journalism, manuscript, Tartu 2012, at http://dspace.utlib.ee/dspace/bitstream/handle/10062/27445/tammeorg_teele.pdf?sequence=1 (accessed 20 February 2013).

186. Interview with Halliki Harro-Loit, Professor of Journalism at the University of Tartu, Tartu, 25 February 2013.

187. Hans H. Luik, at the conference "Media policy: News journalism and media competency—how can the watchdog be nourished?," held by the Chair of Journalism at the University of Tartu, Tallinn, 7 December 2012.

Another very recent change in ownership involved radio: at the end of 2012, the Estonian Competition Authority approved the purchase of the remaining radio business shares by the Schibsted-owned Eesti Meedia—publisher of *Postimees* daily (see section 6.1.1)—from Communicorp Group Ltd (from Ireland). This sale was triggered by the vendor’s economic situation; Eesti Meedia’s newsrooms remain separate, no public announcements have been made about changing output, and no actual changes have been observed.

With regard to pluralism, the media still play an integrating role in Estonian society. Media pluralism in Estonia exists to the extent that there are at least two competing daily mixed-type good-quality newspapers, as reported at a discussion of the Estonian Academic Society of Journalism.¹⁸⁸ There are besides this two large competing commercial television channels, and they are above all balanced by the output of the PSB television and radio services.

6.1.4 Telecoms Business and the Media

The main players in the telecoms market have remained the same. The largest by both subscribers and sales is Elion (the former telephone company Eesti Telefon), which offers “triple-play” services—phone lines, broadband internet, and IPTV. Starman started as a cable company and after some mergers 10 years ago has also become a provider of triple-play services. Other fixed-line operators also provide triple-play services through interconnection with Elion’s network, and mobile operators (such as Elisa) offer broadband services (3.5G and 4G).

The first three multiplexes were licensed to Levira, a broadcasting transmission company that was obligated to develop the digital terrestrial networks (one multiplex for free-to-air channels and two for pay-TV) guaranteeing 100 percent coverage over the entire territory of the country. This needed additional developing, as the analog television coverage was less than 100 percent. In 2011, on the basis of a tender, Starman was also awarded a license for three multiplexes, which they operate from the facilities of Levira (as the natural monopoly of television broadcasting antennas).

By 2011, the telecoms companies had withdrawn from content provision (people still vividly recall the 24-hour transmissions of waterfalls or flames) and focussed instead on distributing the content of others. While the reasons for this withdrawal are not clear, it was presumably the result of a rationalization of resources and the acceptance that direct competition with content providers was not the optimum business model going forward.

6.1.5 Transparency of Media Ownership

Data regarding all legal interests in media corporations are publicly available and accessible online via the Commercial Register, and no cases have occurred in which unclear or hidden proprietary relations have affected media performance. However, the registration of interests is not formally audited by the regulatory authorities, and there is some evidence to suggest that this has impeded implementation of Estonia’s already minimal cross-ownership rules (see section 6.1.1).

188. On 17 March 2011, in Tartu.

6.2 Media Funding

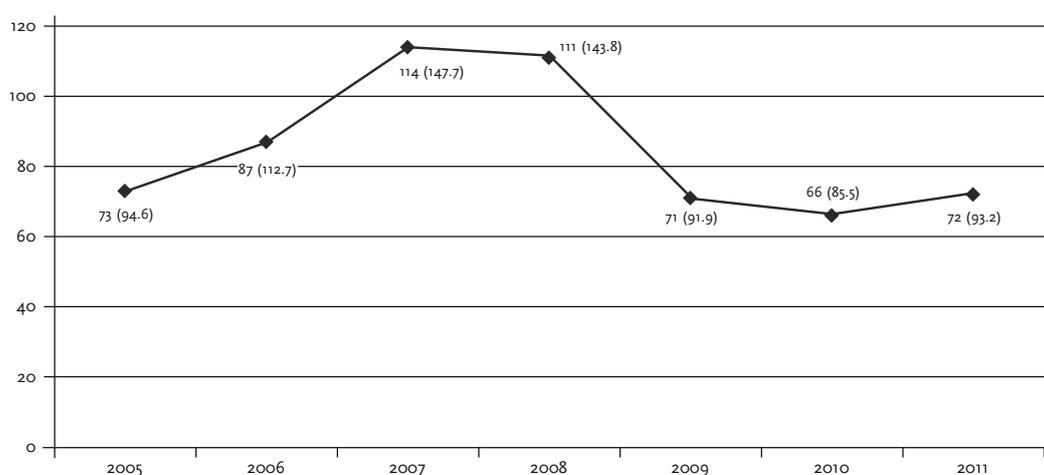
6.2.1 Public and Private Funding

From 2005 to 2007, advertising showed rapid growth: all sectors grew at a yearly rate of over 20 percent, and online advertising grew from 66 percent to 69 percent year on year.¹⁸⁹

The first signs of economic recession appeared in the results of 2008, when the total advertising spend was slightly down (by 3 percent) compared with 2007. In 2008, the newspaper sector declined by 13 percent, magazines by 10 percent, and television by 2 percent. Next year, the drop was more excessive—36 percent—and advertising in all media sectors decreased: newspapers by 41 percent, magazines by 56 percent, television by 31 percent, radio 26 percent, and online by 24 percent. In 2010, some growth in some sectors could be observed but in total the trend was still downward, by 7 percent. The most developing sector was online with 6 percent growth, and television and outdoor advertising also showed marginal growth. All other sectors were shrinking—newspapers, for instance, by 20 percent.

The total advertising expenditure in 2011 remained slightly below the level of 2005 (see Figure 6).

Figure 6.
Total advertising expenditure (€ million (US\$ million)), 2005–2011



Source: TNS Emor

ERR is not involved in the advertising market, and it receives most of its income from state allocations. These allocations have been decreasing since 2008 (by 3.6 percent in 2009 and 7 percent in 2010). In 2011 and 2012, the state allocations remained below the level of 2008. ERR's other income is generated by the broadcaster itself, in the form of various services.

189. Data in this section sourced from TNS Emor, at <http://www.emor.ee> (accessed 10 April 2011).

Table 14.
ERR's budget (€ million (US\$ million)), 2006–2010

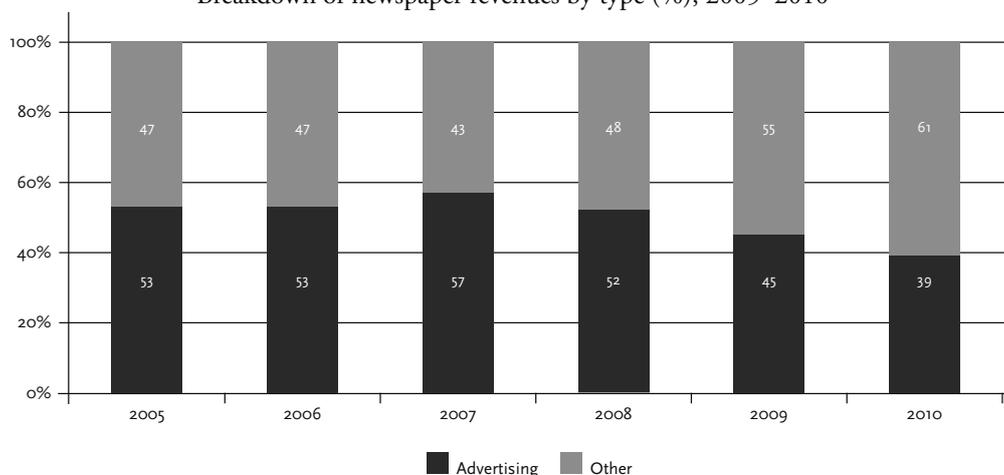
		2006	2007	2008	2009	2010
State allocations for daily operations	Radio	7.2 (9.3)	20.6 (26.6)	22.0 (28.4)	25.1 (32.4)	24.2 (31.3)
	TV	13.4 (17.3)				22.5 (29.1)
Total budget (all income)	Radio	7.5 (9.7)	23.4 (30.2)	29.6 (38.3)	34.0 (44.0)	28.8 (37.2)
	TV	15.9 (20.5)				28.6 (37.0)

Source: Minutes from the meeting of the Broadcasting Council, 6 February 2006; ERR Annual Budgets (2007–2010)

The other segment of the media sector mainly financed by the state comprises cultural newspapers and periodicals, published by the Kultuurileht Foundation, which received €1.37 million (US\$ 1.77 million) from the state budget in 2012,¹⁹⁰ rising to €1.47 million (US\$1.9 million) for 2013.

As for the commercial press, by 2009 copy sales revenue had surpassed advertising income for newspapers. This also means that the audience factor has become a more influential cause in newspapers' agenda setting, which was not the case in previous years.¹⁹¹

Figure 7.
Breakdown of newspaper revenues by type (%), 2005–2010



Source: Estonian Newspaper Association, at <http://www.eall.ee/ajalehetoostus/index.html> (accessed 10 April 2011)

A specific feature of shares of advertising expenditure in Estonia is that the major part of it has been held by the newspaper sector since the early 1990s. Only at the beginning of 2010 did television surpass newspapers in advertising expenditure, which has naturally been the position for television across Europe. The dominance

190. Budgets of the Ministry of Culture, 2012, 2013, at <http://www.kul.ee/index.php?path=0x1x56> (accessed 20 February 2013).

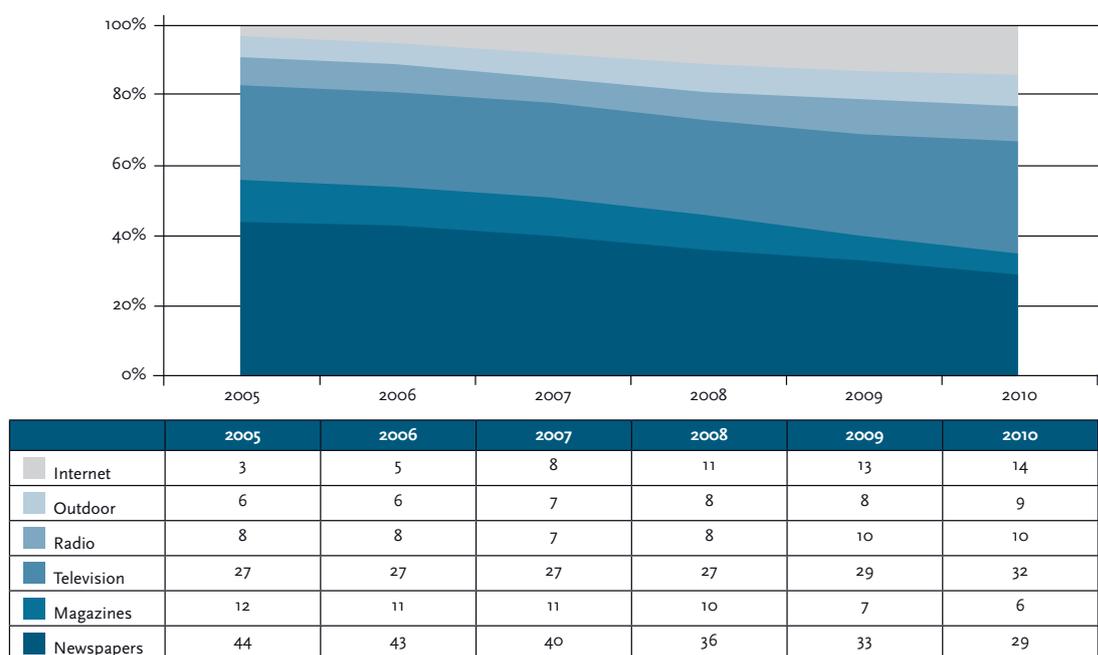
191. Comment from the public meeting held by the Estonian Academic Society of Journalism in Tartu, 18 March 2011.

of the newspaper sector can be explained historically by the relatively high rate of literacy among Estonians by the end of the 19th century, and the inclusion of reading in the common educational standards since the 17th century, also among the peasantry.

However, the shares of the television and newspaper sectors became equal in the first quarter of 2010 (31 percent each). The newspaper sector's share has shrunk, while the portion of the television sector has not increased much. Presumably, a big expenditure share has been ceded to the rapidly expanding online sector, which is partly controlled by the same media companies that publish newspapers. The linguistic barriers have so far kept global search engine companies, Google and others, largely away from Estonia's tiny market, but the impact of global online services on the Estonian advertising market will be seen in the very near future.¹⁹² Spending on online advertising has increased as advertisers moved parts of their marketing budgets to the internet. However, online advertising is still low in Estonia. There are no accessible data broken down by recipients of online advertising.

The radio sector has remained relatively stable and advertising grew slightly during the economic recession, most likely due to the relatively cheaper cost of airtime compared with television.

Figure 8.
Advertising expenditure breakdown by sector (%), 2005–2010



Source: TNS Emor

192. Erik Roose, Business Director of *Postimees*, at the “Media policy: News journalism” conference, Tallinn, 7 December 2012.

6.2.2 Other Sources of Funding

There are no other significant sources of funding in the media. Online versions of some newspapers have pay-walls for reading certain stories (mainly published in the paper copy) or archives. A day pass and an article pass are on offer by *Postimees*, *Äripäev*, *Eesti Ekspress*, and *Maaleht*. The article pass costs €1.50 (US\$1.94) (a year ago it was €0.10 (US\$0.12)), the day pass €3.00 (US\$3.88) (a year ago €0.35 (US\$0.45)). One can pay via mobile phones. However, this type of revenue sourcing is only in its introductory phase, and it is too early to tell whether it will prove to be a sustainable source of income. The attempts made earlier to establish pay-walls around online news content were not successful as the audience had become accustomed to getting news on the internet for free.

The state does not subsidize the media in any form (except for budget allocations for the PSB and the state foundation issuing cultural outlets).¹⁹³ However, there is an opportunity to get single-purpose project financing to cover certain topical issues (radio or television programs, special pages or inserts in newspapers), which may often be the only way to get these topics into the media, even to ERR. The state institutions sometimes buy advertising to disseminate their public announcements (ERR airs them for free). The finances used for that purpose are quite small and have caused no hassle among the public or the industry. Broadcasters, especially radio stations, disseminate state social campaigns through the Association of Broadcasters across all member stations.

6.3 Media Business Models

6.3.1 Changes in Media Business Models

Recent changes in media business models have been triggered more by the economic recession than by technological revolution. Of course, both factors have been entwined and CEOs interviewed for this report¹⁹⁴ stressed the difficulty in distinguishing between them. The drop in the advertising market has been the primary and surface cause of falling incomes. For instance, by 2010 the television advertising market had shrunk by 3 percent, compared with 2005. In the case of newspapers, the recession has catalyzed readers' migration to online news and caused a reduction in subscriptions by approximately 5–10 percent.¹⁹⁵ But this has been somewhat offset by a corresponding reduction in circulation costs. For smaller papers, the subscription income is insignificant compared with advertising, so losing it would not be lethal for them.

193. See H. Harro-Loit and U. Loit, "Policy suggestions for free and independent media in Estonia," in *Policy Report Addressing State and Non-state Actors Involved in the Design and Implementation of Media Policies Supportive of Media Freedom and Independence, the European Union and the Council of Europe*, Mediadem/ELIAMEP, Athens, 2012, pp. 43–51, at <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/11/D4.1.pdf> (accessed 10 January 2013).

194. Interviews for this passage with Igor Rõtov, Director General of *Äripäev* business daily, Tallinn, 19 April 2011; Erik Roose, Business Director of *Postimees*, Tallinn, 25 April 2011; Priit Leito, Director General of TV 3, Tallinn, 9 May 2011; and Priit Jõgi, Manager of the Trio LSL Radio Group, Tallinn, 19 April 2011.

195. Interview with Erik Roose, Business Director of *Postimees*, Tallinn, 25 April 2011.

The number of newspaper readers online is constantly increasing, while advertising income is generated by sales of the print editions. Despite the fact that online advertising sales are growing and have been increasing even throughout the recession, this has not offset declines in print advertising and circulation. The online reader produces minimal income (for *Äripäev* approximately 1 percent of the total income)¹⁹⁶ and, as mentioned above, the introduction of pay-services has not yet had a significant impact on business models.

Cost expenditure has decreased in tandem with the decline in revenues. Cuts have occurred in all segments of media production. However, personnel costs cannot be slashed further, as online news also depends on some qualified staff. Where media managers achieve greater savings is in converging online and offline newsrooms. Cross-media convergence has not been implemented in many outlets.

Under the circumstances, the previous business models of news media have collapsed, as was recognized at a media policy conference held in Tallinn in December 2012.¹⁹⁷ The participants revealed that online-offline convergence with Delfi and *Eesti Päevaleht* was not as cost-efficient as had been expected,¹⁹⁸ and the layer of fat that helped bigger media organizations through the economic recession has been devoured. Any further economic turbulence may cause unpredictable developments.¹⁹⁹

Television revenue models have also been affected by market fragmentation and the emergence of niche channels. This trend is increasingly benefitting the large television companies, which have introduced smaller subsidiaries.

Digitization has led to a broad array of cost pressures on television broadcasters. With market fragmentation, the large channels have needed to provide more domestic content in order to retain viewers, as foreign production may easily be accessed on any other channel. According to Olle Mirme, Program Director at Kanal 2, original production lies at the heart of any channel and helps to bring out its distinctiveness among the overall choice of available options.²⁰⁰ Statistics, however, do not confirm steady growth of original production at Kanal 2 and TV 3 since 2010.²⁰¹ Original production is relatively costly and the price of acquisitions has exhibited an upward trend in recent years.

Broadcasting transmission costs in digital are less than they were in analog, but the television broadcasters have decided to cut costs here too, as the income from advertising has not grown sufficiently to cover them.

196. Interview with Igor Rõtov, Director General of *Äripäev* business daily, Tallinn, 19 April 2011.

197. Conference on “Media policy: News journalism,” Tallinn, 7 December 2012.

198. Hans H. Luik, owner of Ekspress Group, at the “Media policy: News journalism” conference, Tallinn, 7 December 2012.

199. Erik Roose, Business Director of *Postimees*, at the “Media policy: News journalism” conference, Tallinn, 7 December 2012.

200. Olle Mirme, Program Director at Kanal 2, interviewed in K. Karro, “Olle Mirme: ‘Kanal 2 jalad on hetkel kõige pikemad ja lihasedisemad’” (Olle Mirme: “The Legs of Kanal 2 are Currently the Longest and most Muscular”), *Eesti Ekspress*, 11 November 2011.

201. Very generally, there was more “own” production in 2011 than in 2010, but in 2012 the statistics—based on data annually reported by the broadcasters to the Ministry of Culture—do exhibit an overall decline in own production volume. The reason for this may be sought in the shrinking television advertising market in the first half of 2012, over 2011. According to TNS Emor, there was a 5.1 percent decrease in TV advertising volume; see <http://www.emor.ee/eesti-meediaklaamituru-i-poolaasta-kaive-oli-3663-miljonit-eurot> (accessed 30 January 2013).

Already in 2009 (TV 6) and 2011 (Kanal 11), the new digital channels abandoned free-to-air terrestrial transmission, as it only caused extra costs and produced no effect in reaching the target audiences. In 2012, both Kanal 2 and TV 3 threatened to leave free-to-air terrestrial transmission, claiming that the Electronic Communications Act enabled them to collect royalties from the cable networks relaying their content.²⁰²

As indicated in section 1.2.1, the cable networks were not willing to pay the television broadcasters. In 2012, the threats became serious. As explained by Urmas Oru, the Director General of Kanal 2, it was preferable for television broadcasters to pull out of free-to-air transmission and achieve their goal immediately rather than start court proceedings lasting for several years.²⁰³ Mr Oru claimed that most channels relayed by cable networks are paid by the network operators, while they incur no content production costs in Estonia and are not subordinated to Estonian jurisdiction (regarding output requirements), although in many cases they do sell advertising on the Estonian market.

Supported by the Ministry of Culture, the Electronic Communications Act was amended at the end of 2012 to clarify that the large television broadcasters have the right to collect royalties. Tough negotiations over the royalties followed between the cable operators and large commercial channels (Kanal 2 was not shown on the STV network and TV 3 on the Starman network for a period of time); by the end of January 2013, the issue had been largely settled.

Radio broadcasters, on the other hand, have been very little influenced by digitization beyond technical changes in production costs and the provision of additional services (podcasts, online players, audio archives). While these do not yield new sources of income, they do add value for the listener.

Radio probably has the poorest future regarding digitization, as there have not even been any discussions regarding upgrade or switch-over to a digital signal. Reasons for this include the absence of an agreed generic standard and consequent high costs for receivers, and the difficulty of convincing consumers of the benefits when digitization offers no obvious improvements in sound quality. Any surplus demand for analog frequencies can be accommodated by reallocating existing resources more effectively, and reappropriating other spectrum after neighboring countries have restructured their own broadcasting spectrum.²⁰⁴

As to future trends, the interviewed CEOs alluded to specific uncertainties arising from the relatively small scale of the market. The unpredictability of audiences, especially concerning their readiness to pay for new digital services, makes media organizations increasingly cautious as regards investment in new technologies, particularly during the economic recovery.

202. U. Oru, "Minister komaga kimpus" (Minister's Complication over a Comma), *Postimees*, 17 May 2012.

203. U. Oru, "Minister komaga kimpus" (Minister's Complication over a Comma), *Postimees*, 17 May 2012.

204. Russia, for example, still broadcasts television on VHF along the frontier with Estonia. This frequency range contains spectrum also for 100 FM radio broadcasting.

Hans H. Luik asked the rhetorical question: would there be any news in Estonia for which the audience would be willing to pay? He argues that while a “media product” could be made available for free in principle, professional journalism cannot.²⁰⁵ The heads of *Äripäev* and *Postimees* find that the audiences probably would not start paying for news they have already got for free: ongoing experiments with online pay-walls have yet to demonstrate any significant potential for new income sources, as the web with its global resources also generates fragmentation. Erik Roose, Director General of *Postimees*, does see a future in launching some distinctive paid-for niche services online. But by and large the online versions will have to subsist on advertising income. Online news flow might be chargeable only after printed papers are phased out of production, according to Roose. Igor Rõtov, the Director General of *Äripäev*, envisages that by 2015 the printed issue may be less widely read compared with the online version and it will become an “elite item for elderly people.” However, Mr Rõtov predicts that paper versions will disappear only “gradually and agonizingly.”

For the television sector, fragmentation is predicted to continue, with the major broadcasters such as Kanal 2 and TV 3 launching more niche channels to cater for particular audiences.²⁰⁶ However, these channels will not likely have a terrestrial presence, as has been the case with new channels launched by Kanal 11 and TV 6: target audiences for specialist channels tend to be on cable networks or other pay platforms (conditional access: satellite in Viasat, pay-terrestrial in ZoomTV) and the channels do not need to pay for distribution in cable or other pay platforms. All new digital terrestrial free-to-air channels, licensed in 2008, have now vanished, except for the public channel ETV2: one went bankrupt, while two others were restructured as pay-TV channels. Media policy has not adequately addressed this market failure of digital terrestrial television, which threatens to limit the diversity and plurality benefits of digitization for pay-TV viewers.

6.4 Assessments

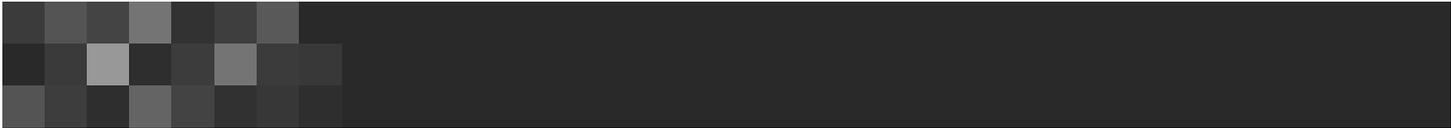
Digitization by itself has not affected monopolies and dominant positions in the media market. Digitization in terrestrial broadcasting has enlarged the spectrum resources available, not all of which have been filled by additional free-to-air programming via multiplexes reserved for digital terrestrial broadcasting. The current oligopolistic structure of the media system seems appropriate for Estonia given its relatively small media market, although it needs permanent monitoring to avoid being taken advantage of by media corporations and to ensure that the public interest trumps any other. Media ownership by politicians is not a problem in Estonia, and ownership transparency has been significantly enhanced by the availability of a commercial register online for the last five years.

There are no indications that the impact of ownership on the performance and independence of the media has changed as a result of digitization.

205. Hans H. Luik interviewed by Hannes Võrno on Kanal 2's show “*Hannes Võrno Q*” 24 April 2011.

206. According to Priit Leito, Director General of TV 3.

For the best journalistic output and quality, conditions would be required under which the media owners and managers, and also the audience, are willing to spend on quality. Public funds would probably guarantee stable diversity and pluralism, especially in broadcasting where the funding for publicly relevant news is clearly inadequate. Public funds do not necessarily produce public institutions. For instance, local radio stations and newspapers can fulfill some public functions at a local level, which cannot be done by national channels. This in its turn would necessitate a corresponding state policy. Currently, the advertising flow seems to be the priority and it often blurs the boundary between advertising and journalistic content. In a small market, it is often impossible to find private sponsors for content of high public value. Financially, the PR sector is stronger than the journalism sector. As a result, PR messages are often transmitted untouched.



7. Policies, Laws, and Regulators

7.1 Policies and Laws

7.1.1 Digital Switch-over of Terrestrial Transmission

7.1.1.1 Access and Affordability

The technical requirement to be met before analog signals could be switched off was that 100 percent coverage of the digital terrestrial signal would be receivable throughout the national territory. This provision arises from the Electronic Communications Act. No other special requirements for access and affordability were adopted by the state. The Government Commission on Transition to digital terrestrial television introduced a logo for set-top boxes fully compatible with the transmission standard in use. It was left up to the suppliers whether to obtain this logo from Levira, the broadcasting transmission company (for pay-TV).

7.1.1.2 Subsidies for Equipment

The state did not pay any subsidies to audiences for the purchase of digital receiving equipment. Jüri Pihel, who heads the Government Commission on the Transition to digital terrestrial television, claimed that such subsidies would be “unreasonable.” He substantiated this with reference to EU policies, as Austria had to face accusations regarding such subsidies for preferring one particular technology.²⁰⁷

However, earlier in 2010 the Minister of Economic Affairs and Communications suggested that municipalities address the issue of subsidizing the acquisition of set-top boxes for those who could not afford it. He wrote to the leaders of municipalities, asking them to consider providing aid for disadvantaged citizens within the existing system of public allowances, which are mainly allotted by municipalities.²⁰⁸ There are no public statistics for how much the municipalities assisted the disadvantaged in their areas, but the initial reactions of some municipal leaders interviewed were skeptical.²⁰⁹

207. Quoted in “Pihel: riigi toetus digibokside jagamiseks pole mõistlik” (Pihel: State Subsidies for Distributing Set-top Boxes would be Unreasonable), BNS/Postimees, 5 March 2010.

208. D. Leitmaa, “Parts palub vaestele digibokse anda” (Parts Asks for Donations of Set-top Boxes for the Poor), *Eesti Päevaleht*, 6 January 2010.

209. D. Leitmaa, “Parts palub vaestele digibokse anda” (Parts Asks for Donations of Set-top Boxes for the Poor), *Eesti Päevaleht*, 6 January 2010.

7.1.1.3 Legal Provisions on Public Interest

There is no explicit invocation of the public interest in the legal framework that governed switch-over. However, certain provisions in the Electronic Communications Act make it clear that conceptions of the public interest were limited to universal access and the protection of public service broadcasting. As already mentioned, the Electronic Communications Act required the digital terrestrial signal to be receivable throughout the national territory prior to switch-over. In addition, the provider of multiplexing services is required to ensure the transmission of the television programs of public service broadcasters and holders of broadcasting licenses, and to provide frequencies for this within the operated multiplexes.

7.1.1.4 Public Consultation

The Government Commission on Transition to digital terrestrial television reported on intense cooperation with interested parties: equipment suppliers, retail sales agents, broadcasting organizations, and providers of transmission and retransmission services.²¹⁰ The final report, however, does not refer to consultations with the public or civil society groups.

7.1.2 The Internet

7.1.2.1 Regulation of News on the Internet

News delivery has not been specially regulated on the internet and mobile platforms. All general laws regarding media content apply.

7.1.2.2 Legal Liability for Internet Content

As to independent news production, legal liabilities apply online in the same way as they do in the printed press. As the internet also provides readers and site visitors an opportunity to add comments to news stories, liability online has presented a controversy as regards who is responsible for UGC. Referring to the Information Society Services Act, media organizations have claimed that they do not account for UGC, as “the service provided just consists of the mere transmission in a public data communication network of information provided by a recipient of the service, or the provision of access to a public data communication network.”²¹¹ However, this provision includes a condition under which the service provider “does not initiate the transmission.”

As mentioned in sections 4.1.1 and 4.1.2 above, the Supreme Court has ruled in the case of *Vjatsšeslav Leedo v. Delfi*—thereby setting a precedent—that media organizations are responsible for user comments, as the comment sections are part of the content provided by the outlet and serve their business interests. As a result, the provision of comment sections cannot be seen as a technical, automatic, and passive service.²¹² Thus,

210. *Maapealse analoogtelevisiooni levitamise lõpetamine ja täielikule digitaalsele levile üleminek Eestis aastatel 2007–2010* (Closure of Terrestrial Analog Television Broadcasting and Overall Transition to Digital Broadcasting in Estonia in 2007–2010), Final Report of the Government Commission on Transition to digital terrestrial television, 9 November 2010.

211. Information Society Services Act, Article 8, section 1.

212. The Supreme Court Case 3-2-1-43-09 dated 10 June 2009—*Vjatsšeslav Leedo v. Delfi*, at <http://www.riigikohus.ee/?id=11&tekst=RK/3-2-1-43-09> (in Estonian, accessed 20 January 2011).

media outlets can no longer claim that they “have not initiated the transmission [i.e. publication].” The outlets have primarily reacted to this ruling by introducing self-regulatory measures: the “notice-and-take-down” policy relies on readers to report libelous or defamatory comments. However, this remedy does not always work effectively or promptly, especially when there is a flood of comments.

7.2 Regulators

7.2.1 Changes in Content Regulation

The structure of media content regulators has not changed over the past five years. Media issues are under the governance of the Ministry of Culture. This body acts as a regulator for broadcasters: it issues licenses and supervises the implementation of the Media Services Act. It also handles copyright issues and ensures compliance with the Act to Regulate Dissemination of Works that Contain Pornography or Promote Violence or Cruelty. For the latter task, the ministry has instituted a Media Division to evaluate specific cases. This division employs two officials, but as they also work on other policymaking-related issues, the supervision is sporadic and inconsistent. The rest of the media landscape, including the internet, is monitored even less by the ministry.²¹³

7.2.2 Regulatory Independence

The Ministry of Culture, particularly its Media Division, has been appointed as a regulator within the scope of the Media Services Act. Estonia is an exceptional example for not having a technically independent regulatory body and thus formally its autonomy can be doubted. On the other hand, as a part of unwritten media policy the freedom of the press is perceived as an absolute right, and no official or politician is inclined to provoke resentment from the media community.

Thus, the undermanned unit merely allowed sporadic supervision and cautious enforcement of media-related laws, which rendered the legislation ineffectual.²¹⁴ In 2012, the Media Division became completely defunct, with no active personnel. The Minister of Culture, Rein Lang, has claimed the credit for giving up licensing, content prescriptions, and the surveillance that these prescriptions entailed.²¹⁵

However, the ministry itself proposed the establishment of an independent regulator in 2002,²¹⁶ in order to supervise the media services, but nothing changed until early 2013, when amendments to the Media Services Act were submitted to Parliament in order to establish the “semi-independent regulator.”²¹⁷ It is

213. See Loit and Harro-Loit, “Media policies and regulatory practices.”

214. Loit and Harro-Loit, “Media policies and regulatory practices.”

215. Interviewed in Loit and Harro-Loit, “Media policies and regulatory practices.”

216. Ministry of Culture, “Kultuuriministeeriumi tegevuskava aastateks 2003–2006” (Action Plan of the Ministry of Culture for 2003–2006), Tallinn, 2002, pp. 104–105.

217. This means that the regulatory body will be embedded in the existing governing system, but policymaking (which remains under the aegis of the Ministry of Culture) and law enforcement will be kept apart.

proposed that the regulator would be part of the TJA, which is accountable to the Ministry of Economic Affairs and Communications and already allocates radio spectrum for broadcasting. According to the draft law, the TJA will issue licenses and conduct surveillance, while the Ministry of Culture retains only some media policymaking functions in the license issuing procedure: the Minister of Culture shall assign the terms of the license and the representative of the Ministry of Culture shall participate in the work of the licensing commission. The rest is fully accomplished by the TJA. The amendment is expected to come into effect as of 1 June 2013.²¹⁸

7.2.3 Digital Licensing

The Media Services Act institutes an advisory commission to evaluate applications for digital broadcasting licenses. According to the Act, the commission shall include up to 11 representatives from agencies related to media services and experts. The new law entered into force in January 2011. However, the Minister of Culture (in office since April 2011) did not assemble the commission, as the ministry started to draft a bill on assigning the law enforcement to an independent agency. This resulted in a temporary suspension of licensing, although several digital media services under that law (programming in cable networks, catalog-based services, and other services which do not require radio spectrum) merely need registering without licensing and related tenders. This registration process has not been suspended. The full effect of the Media Services Act will be seen when the entire licensing procedure transfers to the independent regulator being established under a draft law going through Parliament in early 2013 (see section 7.2.2). However, broad discontent with the licensing process has not been observed.

7.2.4 Role of Self-regulatory Mechanisms

Media self-regulation consists of the Press Council, founded in 1991. In 2002, it underwent significant decay, which led to the creation of a new Press Council affiliated to the Newspaper Association. As the original Press Council also continued to operate, two press councils currently exist.²¹⁹

Both print and online journalism have no specific laws affecting their operations and thus rely mostly on self-regulation. However, this tends to favor the interests of media organizations rather than those of the public, meaning that self-regulatory mechanisms tend to justify media behavior over and above protecting the public interest. The Estonian media scarcely countenance any criticism. Therefore, the new council avoids potential conflicts arising from criticism of the media, including that emanating from academia. It does not progress complaints on the general quality of the media or complaints submitted on behalf of a third party, and accepts only complaints about publications not older than three months (the original Press Council accepts complaints about publications not older than six months), etc.²²⁰

218. 336SE, Bill on Amendments to the Media Services Act and Associated Acts, first reading in Parliament, 23 January 2013.

219. For further details, see H. Harro and E. Lauk. "Self-regulation: Watchdog's Collar or Shelter for the Guild?" in *Välitämisen tiede. Viestinnän näkökulmia yhteiskuntaan, kulttuuriin ja kansalaisuuteen. Professori Ullamaija Kivikurun julkaisuja*, *Viestinnän julkaisuja 8* (Communications Publication 8), Department of Communication, University of Helsinki, 2003, pp. 98–108.

220. Loit and Harro-Loit, "Media policies and regulatory practices."

The main instrument of media accountability is the code of ethics for the Estonian press, which was adopted on the basis of wide consensus from the media associations in 1997. It has never been amended since and consequently has no provisions specifically addressing online media. Both press councils take complaints regarding all media platforms, including online. The existing code has been applied to the online media pursuant to its applicability.

Other cases not directly covered by the code are adjudicated on the basis of common sense. However, the understanding of “common sense” preferred by both councils may not be identical, as some comparative cases (examined by both councils) have shown. In recent years, the new council’s attitude to media practices has become significantly more critical. There have been few online-specific cases to date, and the rules of procedures for press councils are not suited to some distinct aspects of online media. For instance, one unique feature is the continuous online availability of articles published some five or even 10 years ago, which contain outdated information and may consequently cause undue harm.

As it took six years after establishing the Press Council to introduce the current code of ethics, it can be assumed that it will also take some time to shape self-regulatory provisions for online media.

7.3 Government Interference

7.3.1 The Market

No cases exist to the best of our knowledge in which the state authorities have interfered with the media with a view to distorting the media market.

7.3.2 The Regulator

We are not aware of any cases in which the state authorities have interfered with the media through regulatory bodies, or in which regulators have abused their powers.

7.3.3 Other Forms of Interference

There have been no cases of extra-legal pressure on digital or non-digital media, to the best of our knowledge. There have been no direct pressures or threats against editors and owners regarding content, editorial orientation, and personnel.

7.4 Assessments

The implementation of digitization has been left largely to the whims of the market, with the government maintaining a technology- and service-neutral position, as stipulated by the Electronic Communications Act.

There has been no change in analog-era practices of public consultation, and a significant deficit in transparency and accountability persists in the digital era. Presumably, this is due to the fact that there are no citizens' associations addressing technological questions in a competent way, except for the interested parties. On the other hand, the state procedures lack the cohesion needed to organize and operate a participatory democracy. This is a larger societal or socio-political problem in Estonia, which predates and extends beyond digitization.



8. Conclusions

8.1 Media Today

Media independence has maintained its standing over the past five years. Freedom of speech is highly valued and politically protected, with the result that the reach of regulatory institutions in all sectors is limited. In the press sector, self-regulation mechanisms have a tendency to protect media organizations from external criticism, rather than monitor and effectively sanction misconduct. Even in cases where the law refers explicitly to media conduct rules, both government agencies and the courts tend to defer to self-regulatory mechanisms.

Digitization of the broadcasting sector has somewhat enlarged the number of television channels, leading to the emergence of several small and niche channels, distributed mostly in networks with conditional access. These niche channels, however, do not have a strict news quota obligation in accordance with the recent Media Services Act (which replaces the preceding Broadcasting Act). Even the digitally introduced sister channels of the two major television broadcasters either rerun the newscasts of the prime channel or just provide text-TV news slides to meet the news quotas imposed by the law. Thus, digitization has not widened the choice of current news in television.

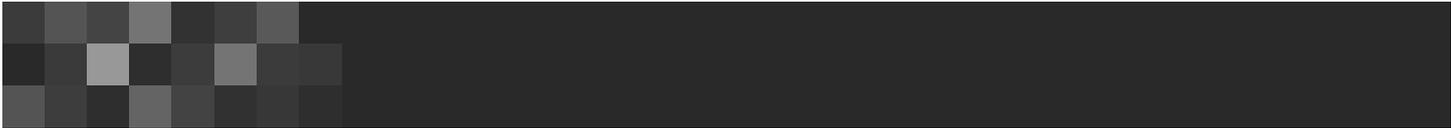
The flourishing of online news spaces has increased the amount of news items and improved the immediacy of their publication. On the other hand, resource cuts and responses of media businesses to the demands for instant information have meant that news quality has not increased in tandem with news quantity.

While pluralism of voices has not increased in the mainstream media, the explosive expansion of social media has enabled various groups of people to share their views and tell their stories. However, people need journalistically verified stories that they can trust. There is little evidence to demonstrate that this kind of journalism has been bolstered by digitization, and some evidence to suggest that digitization has curtailed it.

8.2 Media Tomorrow

Over the next five years, it is reasonable to expect improvement in digital services added to media distribution streams. Currently, the choice of digital added services is poor relative to the wide range of opportunities envisaged at the outset of digitization. Increased convergence across different platforms is also to be expected, notably in the field of internet-based technologies for receiving video services using mobile devices.

The larger newspaper publishers are introducing new products to be consumed using e-readers and other electronic devices. On the other hand, executives from these companies interviewed for this report do not expect a very quick transition to online consumption of newspaper content. It has been difficult to charge for online articles, without risking significant loss of readership. But it is likely that publishers will have to change their practices and start charging once the number of online readers exceeds the number of paper readers. Most of the future trends will also depend on the global economic recovery. The small size of the Estonian media market makes development particularly vulnerable to outside influence, all the more so given that the decision-makers of the large private media organizations are increasingly located abroad.



9. Recommendations

9.1 Policy

9.1.1 Media Policy

9.1.1.1 The Public Interest in Media Policy and Law

Issue

The performance of the Estonian media is significantly influenced by business interests, while the needs and interests of the public in respect of the media—and the ways in which these needs have been and should be fulfilled—have not been explicitly articulated or established. The need for legal provisions that would weigh the public interest in respect of the protection of privacy, media transparency, self-regulation and co-regulation, journalists' autonomy and job security, has not been seriously addressed.

Recommendation

The Ministry of Culture and the Technical Surveillance Authority (with jurisdiction over media issues) should consult with state institutions, commercial players, and civil society actors to develop a coherent media policy, clearly defining the public interest in mass communication and requiring transparency of media operations. This policy should be formulated as a non-normative paper within a larger document (e.g. on national cultural policy) or as a stand-alone document similar to the Estonian Civil Society Development Concept or the Estonian Information Society Strategy.

9.2 Media Law and Regulation

9.2.1 Regulation

9.2.1.1 Choice of News on Television and Radio Channels

Issue

Instead of producing their own newscasts, as required by law, some new digital television channels (as well as some radio stations) relay or repeat the newscasts from their group's flagship channel, simply to meet the

legal requirements for news broadcasting. No action has been taken to ensure that these channels comply fully with the law.

Recommendation

The Ministry of Culture and Parliament should, without further delay, *either* implement the provisions of the Media Services Act, *or* launch an inclusive political debate to determine whether the minimum requirements for news output on digital channels are necessary and in the public interest.

9.2.1.2 Widening the choice of digital services on television channels

Issue

Terrestrial television channels provide few extra digital services. Promised extra services—especially those related to subtitles or voiceover in Estonian, Russian, and other languages, particularly required for disabled persons—have not been launched. The availability of such services has largely been constrained by the fact that most cable networks have yet been digitized. These networks still transmit in analog to 150,000 households.

Recommendation

The Ministry of Culture, The Ministry of Economic Affairs and Communication, and the Parliament should complete the digital switch-over on all platforms, terrestrial, cable and satellite, and muster the resources to motivate private television providers to introduce extra services on digital television.

9.2.1.3 Media Self-regulation

Issue

The code of ethics for the Estonian press, adopted in 1997, does not address digitization-related issues.

Recommendation

Media organizations, together with civil society groups and media experts, should update the code of ethics for the Estonian press.

9.3 Public Service in the Media

9.3.1 Providing Sufficient Financing for the Public Service Broadcaster

Issue

Funding for the public service broadcaster, Estonian Public Broadcasting (*Eesti Rahvusringhääling*, ERR), is not sufficient or predictable, despite development plans approved by Parliament or the Public Broadcasting Council, appointed by Parliament.

Recommendation

Parliament should finance ERR according to the approved development plans to avoid cases of insufficient and unpredictable funding.

9.4 Digital Media Literacy

9.4.1 Boost Digital Skills of the General Population

Issue

Although Estonians make active use of digital technologies, there are very few options for civic participation and e-democracy.

Recommendation

The Ministry of Education and Research and the Government should introduce effective programs, including public campaigns, to improve the overall digital literacy skills of the population. Such programs should offer both practical training courses and tutorials.



List of Abbreviations, Figures, Tables, and Companies

Acronyms and Abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
BNS	Baltic News Service
BQS	Broadband Quality Score
DTT	Digital terrestrial television
ELASA	Estonian Broadband Development Foundation (<i>Eesti Lairiba Arenduse Sihtasutus</i>)
ERR	Estonian Public Broadcasting (<i>Eesti Rahvusringhääling</i>)
ETV	Public service television (<i>Eesti Televisioon</i>)
EU	European Union
IPTV	Internet protocol Television
ITL	Estonian Association of Information Technology and Telecommunications (<i>Eesti Infotehnoloogia ja Telekommunikatsiooni Liit</i>)
ITU	International Telecommunication Union
PBK	First Baltic Channel (<i>Pervyi Baltiiski Kanal</i>)
PSB	Public service broadcaster/broadcasting
SNS	Social Networking Site
TJA	Technical Surveillance Authority (<i>Tehnilise Järelevalve Amet</i>)
UGC	User-generated content
YLE	Finnish public broadcaster (<i>Yleisradio</i>)

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Companies

Communicorp Group Ltd	Schibsted
Delfi	Starman
Eesti Meedia	STV
Elion (former Eesti Telefon)	Swedbank
Ekspress Group	Tallinna TV
Elisa	TDF
Kalev Meedia	Trio LSL Group
Kanal 2	Turu-uuringute AS
Levira	TV 3
MediaCom	Viasat



Entry 2

THE ROLE OF PROFESSIONAL JOURNALISM IN THE 'SMALL' ESTONIAN DEMOCRACY

by

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The Role of Professional Journalism in the ‘Small’ Estonian Democracy

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14.1 Introduction

In the era of networked communications, the information overload makes it increasingly difficult for news consumers to find complete, relevant and trustworthy information. At the same time, the collapse of the business model of journalism has nourished heated discussions on whether professional journalism has abilities (i.e. autonomy and resources) to provide trustworthy information to citizens. Using Estonia as a case study, the main aim of this chapter is to examine the ways in which different actors influence the level of autonomy afforded to journalists and their institutions. Journalistic professionalism has been strongly rooted in the Estonian culture and political parallelism is observable only to some extent concerning the local media. The Estonian media system is for the most part influenced by economic factors of the media market. The state’s role in media regulation is rather limited; a liberal approach has dominated media policy since 1990s.

In very small countries, such as Estonia (total population of 1.36 million of whom about 0.9 million follow Estonian language media), where press freedom is heavily institutionalised, the major problem concerning the quality of democracy is transparency and the individual’s courage to speak freely without being afraid of the consequences. Only autonomous journalism (based on professional information processing and a professional ideology that evaluates the role of the ‘watchdog’) is able to provide information that increases transparency within society. Taking up an actorbased approach,¹ the analysis examines the plurality of formal and informal actors and processes, which, with varying degrees of power and autonomy, play interrelated roles in defining the values and norms reflected in journalism. The study is based on 28 qualitative interviews with Estonian journalists, a discourse analysis of the Estonian Supreme Court’s argumentation concerning the media within the past decade and a meta-analysis of related research within the field (Niinepuu, 2012; Paloveer, 2012; Tammeorg, 2012; Kasenõmm, 2011). We conclude by suggesting some policy mechanisms that might support new forms of public-service oriented reporting in Estonia.

14.2 Should we ‘save’ journalism and on what conditions?

Keen (2007), a cultural critic of Web 2.0, claims that the enormous amount of information produced on a daily basis illustrates the need for gatekeepers to filter information, because blogs, YouTube and social media can provide inaccurate information or function as vehicles for veiled corporate propaganda. Keohane (2008: 12) and Frenkel-Faran (2008: 675) counter-argue that Keen deliberately dismisses the fact that professional media channels are vulnerable to the same criticism. Hence, in the context of contemporary media policy, certain critical questions need to be asked: How autonomous are so-called citizen journalists such as bloggers and commentators? Will their labour replace that which was formerly performed by salaried reporters? Do citizen journalists have material, intellectual and time resources to carry out daily reporting and fact checking concerning state institutions and powerful corporations? In response to these questions, Compton and Benedetty (2010) write: ‘The argument that citizen journalism creates autonomous

¹ See Anagnostou, Craufurd Smith and Psychogiopoulou, 2010: 12–13.

opportunities for pluralistic production of news is a myth. We need to make a distinction between opinion and reporting' (496).

Kovach and Rosenstiel (2010) have introduced the concept of 'new-paradigm reporting', which involves examining significant amounts of data to get beyond the facts and provide complete and reliable information to the public. Watchdog reporting, in particular, requires an exceptionally high level of information processing and documentation to produce trustworthy exposes. In this context, journalists should be seen as interpreters, analysts and gatekeepers who check the quality of information rather than just news gatherers (Singer, 2006). The fulfilment of these functions requires huge investments in terms of time, journalistic skills and organisational resources (Schudson, 2010: 105), which are bolstered in turn by the implementation of three values: authenticity, accountability and autonomy. Occupational autonomy, in particular, is a criterion of professionalism.

Even if the freedom of expression (a widely accepted value in democracies) protects the media and journalists from direct political interference, journalists may abandon their autonomy because of profit-oriented pressure emanating from their superiors or, on a personal level, because of a low level of moral sensitivity or motivation concerning autonomy. Diminishing job security lures journalists (especially those who are positioned low in institutional hierarchies) to relax into the cool comfort of indecision: responsibility is passed off to an editor, news director or other superior (Merrill, Gade, Blevens, 2010: 32). In addition, convenient and cheap access to information supplied by the public relations sector, state organisations, and political groups, means that journalistic content has a tendency to be shaped by these information providers. Thus, while a journalistic institution itself seeks to exercise autonomy from state control, on an individual level, journalists often lose personal autonomy to a significant degree (Merrill, 1992; Christians, Rotzoll and Fackler, 1991: 33–57; Shoemaker and Reese, 1991: 115–144; Sanders, 2003: 27; Singer, 2007). While traditional European human rights instruments provide *de facto* legal protection (Fenwick and Phillipson, 2006: 25) of the institutional freedom of the press and 'editorial autonomy', journalists may experience a range of pressure mechanisms that inhibit autonomy.

14.3 Actors and mechanisms influencing the autonomy of journalism in Estonia

The influence of different actors on media policy and its implementation in Estonia varies significantly. Some are more active and have a remarkable or medium influence (e.g. self-regulatory bodies); others are less active but have a stronger influence (e.g. the courts, media owners), and some are passive and have an unremarkable influence (e.g. lay members of the public as media critics) (Loit and Harro-Loit, 2012: 91). In what follows, we discuss the various actors and mechanisms that have a normative and cultural influence on journalism as a profession and journalists' autonomy.

14.3.1 Economic actors

Economic pressure in journalistic practices comes primarily from the business model of commercial journalism. Though all actors within media institutions are under some economic pressure, the actors' position within the organisation largely determines its form. In theory, media owners do not directly influence everyday editorial decisions. But in practice, the owners' influence may manifest itself in their choice of key personnel or in strategic decisions about resources. Managers in media organisations are thus both professional journalists and employers who must facilitate financial profitmaking. In this way, middle management is less devoted to 'public service journalism' than reporters might be (Beam et al., 2009: 747).

Journalists are increasingly reliant on press releases and financial resources originating from third parties (i.e. sponsors, advertisers, government projects), and their work is therefore shaped by the needs of various interest groups. For instance, brands are increasingly appearing in news media formats (Avery and Ferraro, 2000; Nelson and McLeod, 2005: 516; Harro-Loit and Saks, 2006; La Ferle and Edwards, 2006), mixing journalistic and promotional discourse at the textual and

organisational level (Bærug and Harro-Loit, 2012). In addition to commercial advertisers, political groups, state and public organisations also wish to 'buy' journalistic content. Regardless of whether the content in these cases can be said to be in the public interest, its production is problematic in that it is *non-autonomous*. Also, the public is often unaware of the funding mechanisms used.

Concerning the diminishing borders between journalism and marketing communication, it is important to emphasise that different media channels each occupy a different position (Harro-Loit and Saks, 2006). Direct commercial pressure from owners and marketing personnel has become acceptable inside the magazine industry (Bærug and Harro-Loit, 2012). The former chief editor of an Estonian health journal, who held her position for ten years, until 2009, says she felt pressure from both the journal's foreign owners and the executive editor:

First we dealt with the cover ... the whole troll went about the cover which never appeared to be satisfying, but we [the editorial office] could undisturbed work on the content and the circulation went up for almost five times ... as the owners did not understand the language. ... However, soon the discussion also reached the content – and the readership was too old. ... The marketing gurus told us that the target audience needed to be young and wealthy. Old people do not have money, they said. ... The owner also said to dismiss old authors. ... OK, we, the content makers, did not give up our position either – as the real life proved that middle aged people and a bit over it liked our work and the circulation endured. ...

Then a young author wrote an in-depth warm-hearted portrait story about a soup kitchen executive ... We chose some pertinent, delightful photos not to shock anyone. And for that we were heavily rebuked for several months ... Further on, the executive manager, whose primary task was to economically run the office, reviewed all illustrations and had to approve all choices. Gradually all the real-life photos ceased to appear – no real medical workers, no respectable sources, no one. ... Consequently, all photos were chosen from stocks – the image photos. ... We were continuously drummed that a magazine needs to sell dreams to the people.²

Commercial pressure on content is also immediate for the newspapers' 'soft news' or 'B-sections'. One of the interviewees who worked on the B-section of a national daily observed

We have heavy pressure by advertising. Unbelievable! We are even told to send the topics to the advertiser – then the advertiser will decide, whether to buy a large or a small ad ... And you need to prepare the topics some two weeks ahead for the sales person who will forward these to the clients. There have been several conflicts about it – why did you write this way or why some story was not there.³

Only journalists from public broadcasting clearly state that their position is different from the commercial media:

We needn't focus on how good we are in selling ourselves. Of course the ratings are relevant, but we do not necessarily hold panic meetings in case the rating slightly drops. Or make an effort to tail naked flesh or blood to the output to avoid vapidty.⁴

Job security is also an economic factor that supports or diminishes journalists' autonomy. Although Estonian reporters are supposedly represented by the Union of Journalists (UJ), this collective actor has been severely marginalised by contract negotiations. One interviewee (a member of the UJ) explained why the union is no longer able to protect journalistic integrity and promote secure working conditions:

/ - / who are the members of the journalists' union? Mainly retired or withdrawn journalists. In several cases the employees by default are expected not to join the journalists' union –

² Interview with a former chief editor of a health and life magazine, Tallinn, 25 September 2011.

³ Interview with a journalist in a B-section of a daily newspaper, Tallinn, 8 October 2011.

⁴ Interview with a television journalist, Tartu, 20 October 2011.

sometimes the membership has even officially been banned. ... Any journalist would like to eat.⁵

In 2004, Marianne Mikko, a former journalist and member of the European Parliament, wrote in the cultural weekly Sirp:

In Estonia only 10–15 per cent of journalists belong to the trade union. / ... / Many Estonian journalists are afraid to join the journalists' trade union. (Mikko, 2004)

It is clear then that Estonia lacks a sufficient mechanism for balancing the influence of journalists' employers.

14.3.2 Public actors and professional associations

The issues related to media policy seem distant and inessential for Estonian politicians. For instance, MP Igor Gražin claims that '[t]he Estonian media policy lies only in the Estonian National Broadcasting and that's it. Regarding anything else – there is total freedom'.⁶

In contrast to political actors, the role of Estonian courts and judges has been more influential in regards to the implementation of freedom of speech. While the first- and second-degree courts have tended towards protecting press freedom without balancing it carefully against the rights of individuals, the Supreme Court has followed a more balanced approach, on the basis of the following values and principles: media freedom, freedom of expression, privacy-related rights and the public interest. The distinction between a factual claim and a value judgment, in particular, has been a recurring topic in the Supreme Court's argumentation. While a factual claim can be verified, a value judgment is subjective, and therefore, no refutation can be claimed as it does not contain data. This provides a profound defence for the media. Further, the courts in Estonia have judged moral damages sparingly, to the benefit of press freedom. One of the largest amounts paid by a media organisation (in the 1990s) was 200,000 EEK (€12,782) to compensate for revealing an individual's private information.⁷ The average moral damage fee is about €300–400.

In several rulings related to journalistic coverage, the Estonian Data Protection Inspectorate narrowly underlines the principle of protecting individuals' personal data, discarding the equally relevant issue of transparency in public affairs. For example, a district court overruled a ruling by the Inspectorate mandating the erasure of articles from a newspaper's online archives due to a complaint filed by an individual.⁸ Both the Estonian courts' adjudications and the Inspectorate's rulings are addressed to media organisations rather than individual journalists. This suggests that the freedom of speech and the issue of media responsibility are treated on the organisational level.

A certain tension between individual and collective (organisational) accountability is already present in the structural arrangements of professional organisations in Estonia. Since 2001, two media councils represent the professional community of journalists, and handle complaints from members of the public (Loit, Lauk and Harro-Loit, 2011: 40–42). The UJ is a member of the original press council (ASN), while the Newspaper Association (chief editors represent newspaper organisations) has established a Press Council (PC). In some cases, the two press councils have reached different adjudications on the same complaint, producing a rich collection of information on moral conflicts in the Estonian news media.

The critical question is the public accountability of the individual journalist. Typically, when a complaint is received, the editor-in-chief of the accused media organisation initiates a discussion with the accuser, and journalists are said to be involved in the process of composing the response. The journalists interviewed in the context of this study regard this to be an appropriate practice

⁵ Interview with a former chief editor of a health and life magazine, Tallinn, 25 September 2011.

⁶ Interview with Igor Gräzin, MP and member of the National Broadcasting Council, Tallinn, 24 September 2011.

⁷ Supreme Court, case no. 3-2-1-138-02, <http://www.riigikohus.ee/?id=11>, date accessed 1 December 2012.

⁸ Tallinn District Court, case no. 3-09-706(2010), https://www.riigiteataja.ee/kohtuteave/maa_ringkonna_kohtulahendid/menetlus.html?kohtuasjaNumber=3-09-706/45, date accessed 5 December 2012.

for providing them with the necessary editorial protection (Harro-Loit and Loit, 2011: 38). None of the interviewees perceived 'replying to the complaint' as a method of being held personally accountable.

Kübar's 2006 analysis of the replies of media organisations to complaints shows that journalists' answers include more detailed descriptions of information processing, and reflect their moral dilemmas, while editors-in-chief predominantly provide defensive arguments. This tendency is also typical to more recent cases. For example, after explaining the circumstances of reporting a case in a certain way, a journalist wrote: 'From my childhood I remember a principle: you should protect the one who is weaker and beat the snitcher. I am sorry if this principle is not acceptable for someone.'⁹ This kind of reply reveals the journalist's personal value dilemma and enables the public to understand the journalist's reasoning.

The cases handled by the two self-regulatory bodies are one of the major ways to facilitate public dialogue between citizens and professional journalists. ASN requests responses to complaints from both reporters and editors-in-chief. But since the split of the press council in 2001, some editors-in-chief have instructed their employees not to respond to ASN. For instance, in 2008 the editor of Kanal 2, Antti Oolo, wrote: 'The Estonian media channels have decided long ago to unanimously ignore ASN. ... I recall when working at *Eesti Päevaleht* all staff members received a corresponding e-mail'.¹⁰ During the past few years this attitude has softened gradually, with several individual journalists writing answers to the ASN. However, the fact remains that some Estonian editors-in-chief believe they have the right to determine under what circumstances journalists should or should not address matters of professional ethics.

14.3.3 Educators and researchers

In media policy debates, media educators and researchers are rarely seen as influential actors. This view may be influenced by the practitioner –academic tension that has lasted for decades (Deuze, 2001; Frith and Meech, 2007; Cushion, 2007). Within the past decade the debate on journalism education has moved towards a more nuanced and thoughtful debate on what competences journalists should acquire in order to survive in a rapidly changing media environment and career models (Kelley, 2007; Harrison, 2007; Baines and Kennedy, 2010; Poerksen, 2010). Reinardy's study (2011) exposed high rates of exhaustion and cynicism, with young journalists being especially at risk. Weaver et al. (2007) reported that stress and burnout were among the top reasons journalists expressed an intention to leave their job. While the media industry is mostly focused on production efficiency, educators should become more focused on the issues surrounding individual journalists: their competences, self-perceptions and their professional efficiency and security. Gaining these competences takes time and resources that the media industry does not have.

In Estonia, there has been a relatively strong tradition of journalism and media research, based on a critical number of researchers with a strong academic background. Professional education in journalism has been research-based since 1954, currently related to the social sciences at the University of Tartu. Since the end of the 1990s, the practical part of journalism education at Tartu University has shifted its paradigm toward a reflective practice in journalism: from 'knowing how' to 'being able' (Niblock, 2007). Bearing in mind that journalism education further creates the discursive space needed for critical review of the media industry, regular debates are held at the University of Tartu by the Society of Academic Journalism, meant to foster critical discussion of Estonia's media performance.

14.4 Journalists as individual and collective actors

Although usually all professionals working at media organisations fall into the category of the 'professional community,' there is a distinction between the leaders of media organisations and

⁹ ASN, case no. 508, http://www.asn.org.ee/asn_lahendid.php?action=view&num=508, date accessed 1 October 2012.

¹⁰ See <http://www.asn.org.ee/foorum/viewtopic.php?t=439>, date accessed 25 November 2011.

journalists (i.e. reporters, editors and middle managers). Merrill (1989), the leading advocate of an existentialist approach to journalism, cynically declares: '... journalists in the lower echelons are going about their duties not as professionals who deal with their clients directly and independently, but as functionaries who fashion their work in accordance to supervision and direction by their editors, publishers and news directors' (36).

One critical question concerning journalists is whether the group is homogeneous enough. Do the majority of community members share more or less the same professional values? Estonia's small size makes it easy to reach agreements among social partners when these are being cooperative, because the nation is culturally quite homogeneous (Schmidt, 2011 : 170–171). The reality concerning journalism, however, is that generational differences and different personal values are embedded within diverse organisational milieus (Kasenõmm, 2011; Harro-Loit, Lang and Himma, 2012). In what follows, we examine the effects of three factors that shape the integrity of the journalism profession: discursive institutionalism, the job market and journalists' own perception of journalistic autonomy.

14.4.1 Discursive institutionalism

One factor that makes Estonian professional journalism unique is its historical discursive institutionalism: a wide range of ideas and discourses that reflect the Estonian press history as a carrier of ideas and 'collective memories' about the profession (Schmidt, 2011: 159–158).

The first Estonian language publications date back to 1766, with an Estonian newspaper reading tradition that began in the middle of the nineteenth century. The weekly newspapers *Perno Postimees* (which was established in 1857) and *Eesti Postimees* (which was created by the first Estonian journalist, Jannsen, in 1864) had about 2,000 subscribers, while the most popular weekly papers of the 1880s drew up to 4,000 or 5,000 subscribers (Lauk, 1990: 545). The appearance of the first Estonian daily newspaper, *Postimees*, shows that there was high demand for daily news by 1891. The reporting profession sprang up in the Estonian media in the 1920s as a result of the rapid modernisation of the Estonian society.

The Soviet regime (1940; 1945–1992) created a break with the values and social relations in most walks of life. A professional journalistic community – having been very small and brutally suppressed during the Stalinist era – started to develop during 'the thaw'. By the end of the 1970s, an alternative journalistic discourse had been created and existed alongside the discourse of Soviet propaganda (Harro, 2001).

Estonia's press history has been researched and interpreted as part of its national cultural heritage. The following example, from a qualitative interview, shows how journalists refer to the history of Estonian journalism when they describe normative ideas about their profession. A male journalist, an experienced court reporter, speaks about the role of his newspaper, using a matrix-narrative from Estonian press history:

Besides conflict, there is always a narrative (in the law court) and almost always there is a moral in the story. We can make some educating job through stories, which might be the cardinal in the yellow press: the simple reader is provided with interesting reading with a wisdom berry. In other words – the old good idea by Jannsen [the first Estonian journalist]. For what he was criticised by his contemporaries – why to write in the senseless rustic language, while the intelligentsia was speaking the German language? And Jannsen said: I am not making my newspaper for great and wise minds, but for the small and the curious. I think *Õhtuleht* [the tabloid] might be the same. Well, as an ideal.¹¹

The first journalism professor at the University of Tartu, Juhan Peegel, started a strong research tradition on the Estonian press history in the 1950s. The historical narratives about the Estonian news media formed part of the nation's cultural resistance against the Soviet ideology and the professional identity of young Estonian journalists. In the 1990s, during the transition period, Estonian media organisations got rid of many older journalists (who, in some cases, were labelled

¹¹ Interview with a tabloid newspaper journalist, Tallinn, 4 March 2011.

'Soviet relics'). Actions such as these tend to reduce the collective memory of the professional community, as well as the awareness of professional values (De la Sierra and Mantini, 2011: 21). However, the research conducted on the Estonian press history continued to develop and expand. Today, 89 life stories of Estonian journalists, published in three books, along with several other biographical books by Estonian journalists, academic monographs on the Estonian media history and commemoration events of journalists who have graduated from the University of Tartu contribute to the process defined as historical discursive institutionalism.

14.4.2 The job market

The majority of journalistic jobs in Estonia are located in three companies: Eesti Meedia, Ekspress Grupp and Estonian National Broadcasting. Geographically, most of the jobs are in the capital city, Tallinn. The overall number of journalistic jobs in 1995 was 1,500 (Lauk, 1996: 30); in 2011, the number of journalists was about 1,100, and in 2012, our research team calculated about 900 journalists.¹² The limited number of jobs increases the importance of journalists' loyalty to their employer.

In Estonia the profession is not overpopulated and therefore competition is not 'among the cheapest bid' (Ghinea and Avădani, 2011: 45). Though entrance to the market is not regulated, the majority of our interviewees noted that because the job market is so small, it is best to 'be invited'. Only half of the interviewees had had a job interview, and none had been given feedback concerning their competences or lack thereof. Actually, they could not recall any criteria being set for the desired positions (Niinepuu, 2012). One of the interviewees described how journalists' number of competences could impact their overall job security:

If you are a mono-functional worker, for example typing something online, your position has a low perspective in case the costs are cut or anything else happens. The probability to get an invitation from another media organisation is low. In case you are a multi-tasking person, or you have a prominent name or you know many in various outlets, you possess a better perspective.¹³

In sum, the journalism sector in Estonia has fairly non-transparent market entrance conditions, unclear evaluation criteria, and low job security on account of the small market. These conditions may diminish journalists' motivation to evaluate autonomy in the first place.

14.4.3 Journalists' perception of autonomy

Journalists are aware of the economic pressure. For example, in the following quotation, a journalist highlights the difficulty of balancing efficiency against her personal notion of quality and ethics:

'You should forget the quality', as I was told. I was told that 80 per cent of what I am doing is fine-tuning and this is inept, as 80 per cent of the readers would not notice this ... I need to forget most of what I was taught at university. ... I should even unlearn my own ideas about quality, sometimes about ethics. ... In order to withstand competition you should be especially productive and it is especially good if you have leaking sources ... Your writing quality is also important but last in the line.¹⁴

Low sensitivity concerning professional autonomy became evident when we compared our interviewees' responses to the general questions posed regarding professional autonomy, to their replies when asked to mention specific instances in which they could not make decisions according to their own consciousness and personal values. Most interviewees generally said that they felt autonomous, though their narratives described various mechanisms that negatively impacted their level of autonomy.

¹² There are no official statistics about the number of professional journalists working in Estonia.

¹³ Interview with a chief editor in an online-portal, Tartu, 11 October 2011.

¹⁴ Interview with a journalist in a weekly magazine, Tartu, 6 October 2011.

Perceptions on 'journalistic autonomy' caused confusion among the interviewees, who could not express themselves easily when speaking about the concept. They admitted that they had not thought about the issue and, only during the interview, gained a perspective on professionalism. Some journalists described different threats to their autonomy, although they did not label them. The most elaborate description emphasised the differences between internal and external pressures but did not analyse them critically:

This primarily means freedom to write independently of external people and sources. ... In some cases – and I don't speak about the current political issues, but soft topics – we can discuss about setting the focus with the sources as well. But I needn't do it. Yet, internal affairs make a different matter. You need to subordinate to your boss. The independence is somewhat trammelled – you need to write in the way your boss likes, not as you would like to address the topic.¹⁵

Direct in-house pressure to cover items in a certain way exists, but appears to be rare. One of our interviewees noted:

Once happened that the chief editor assigned a topic to me which was some kind of punching the competitor. Then I told the editor that... we ourselves have done the same – why should we pick on them. That it wasn't justified. Anyway, I wrote the story – as I found it right. Next day I saw that a couple of passages had been added to the story ... This is not right, is it? And I told the editor that this was not my story anymore ... I felt as if I had been somebody's tool, being used in the war between competitors. But your name stays under it. Nasty. But has happened more than once.¹⁶

This description reveals, again, that Estonian journalists do not possess any formal tools to protect their autonomy and values. However, the interviews did show that a choice exists between voicing and not voicing one's opinion. The following excerpt demonstrates a situation in which the journalist refused to cover a 'hyped' topic, and endured the ensuing conflict:

Luckily I was right at the end, although I had no arguments but the guts ... I said that there was no more topic than just hum...It was about the alleged beating of a black-skinned person and I was about to cover it. My background work revealed that no one turned to Estonian Public Broadcasting or to the police. There were no official claims and the entire story was based on back-handed hearsay popping up in the social media ... I said 'no'. Finally the top management came in and said OK. Finally there was no story and private televisions and newspapers actually got into a scrape.¹⁷

¹⁵ Interview with a journalist in a weekly magazine, Tartu, 27 October 2011.

¹⁶ Interview with a television journalist, Tartu, 20 October 2011.

¹⁷ Interview with a chief editor in an online portal, Tartu, 11 October 2011.

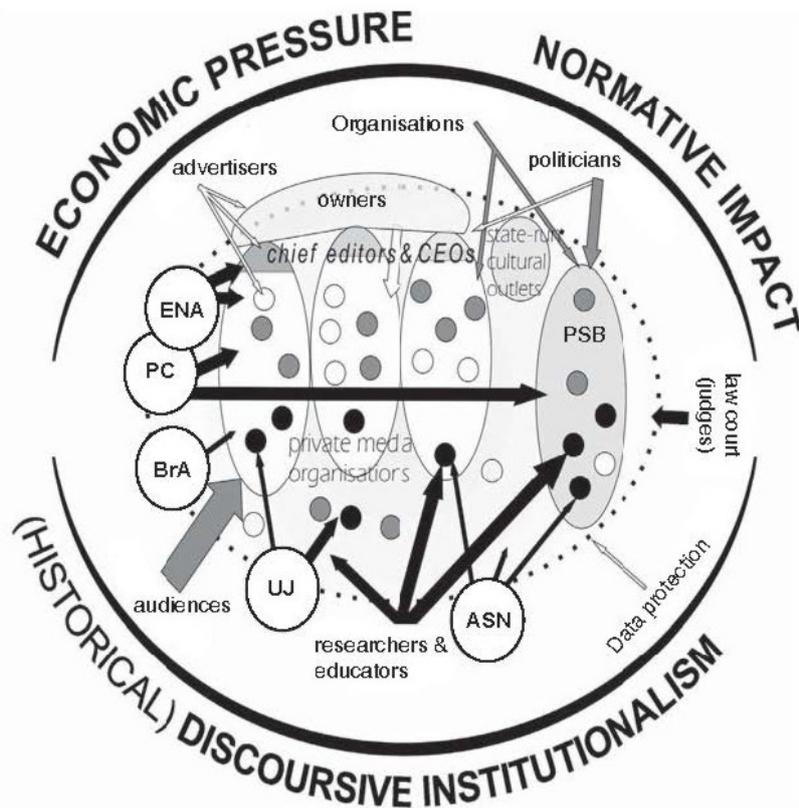


Figure 14.1 Actors and influences shaping the autonomy of professional journalism in Estonia

Note: BrA: Association of Estonian Broadcasters; ENA: Estonian Newspaper Association

14.5 Conclusion

The previous analysis is summarised by Figure 14.1, which shows the links between traceable pressure mechanisms. If certain important relationships are not depicted on the graph, it is worthwhile examining why they are hidden or receive little attention. In Estonia, for example, there is no cooperation between politicians, researchers and advertisers.

The central element depicted is journalism as an institution, inside of which are media organisations and individual journalists. The black spots demonstrate areas in which individual journalists are aware of autonomy and able to protect it, grey spots indicate areas where journalists might be aware of autonomy's value but unable to stand for it, and the white spots reflect areas where journalists might be rather unconcerned with autonomy altogether. The graph shows that Estonian journalists are mostly employed by news organisations, with very few working as freelancers. The importance of black spots (professional self-awareness) becomes greater when journalists produce different types of content: news, 'infotainment' programmes, promotional texts. These 'entrepreneur-journalists' should be extremely conscious about their autonomy, in order to fulfil their 'watchdog' function when they are producing news.

In the graph, discursive institutionalism, economic and normative factors are interwoven, with relevant actors occupying different positions in relation to them. The graph shows that the influence of different actors could be biased towards increasing (the black arrows) or decreasing autonomy (the white arrows). The influence can be stronger (represented by thick arrows) or weaker (represented by thin arrows) and be directed mainly toward the institution (e.g. the courts), individual journalists (e.g. professional educators) or both (e.g. self-regulatory bodies).

As the analysis showed, different actors also have 'pro-autonomy' or 'contra-autonomy' influence. For instance, in Estonia judicial influence strongly favours the autonomy of press institutions. The journalism community, however, is rather inward-oriented. Journalists rarely explain the choices

they make in their work and/or moral dilemmas and are not active in media policy formation. Small societies like Estonia could use their size to their advantage, establishing networks among actors, thereby decreasing contra-autonomy forces. In addition, in small societies, the influence of individuals is also considerable. Therefore, personal accountability would support the increase of 'black spots'.

In the era of information overload, press freedom itself does not guarantee the achievement of transparency and journalistic autonomy. Not only do information-producers (i.e. news sources and representatives of various organisations) usually have their own agenda but also free access to public information does not guarantee an informed citizenry. Therefore professional journalists must be both personally motivated and encouraged (through both norms and legal mechanisms) to carry out their interpretive work autonomously from interest groups. It is vital that democratic states address the question of what policy instruments may support this new-paradigm in professional journalism. As a major conclusion of this study, we would suggest that media policy should become 'network-based'.

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Entry 3

RADIO IN ESTONIA: MEAGER BUT ENDURING

by

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SYMPOSIUM: RADIO IN THE FORMER SOVIET REPUBLICS
Radio in Estonia: Meager but Enduring

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Historically radio has held an important place in the lives of Estonians that shaped radio's character during the years of the Soviet Union and after Estonian independence. Radio developed an intimate relationship with Estonian audiences and was important during the drive for independence. After independence state broadcasting moved toward a public service model while commercial radio developed under the control of a small number of corporations. While public service radio and commercial radio compete in ways similar to other European and Nordic countries, radio in Estonia remains strong.

Regular radio broadcasting in Estonia celebrated its 85th anniversary last December. Started as a private venture in four rented rooms, it has become a medium with nearly 30 stations operating locally, regionally and nationally. The regularity of radio broadcasting was disrupted for only ten days at the end of the World War II. Otherwise it has maintained constant contact with Estonians despite various regimes, including occupations and Soviet rule. This paper examines the development of radio in Estonia from its beginnings in 1926, the influence of Soviet radio, through radio's development in independent Estonia. The paper focuses on the unique character of Estonia's radio and its mix of public service and commercial broadcasting.

Estonia launched its broadcasting at the end of 1926 which was quite late compared to many other European countries. Sweden, Germany, and Czechoslovakia were broadcasting by 1923, neighboring Finland in 1924, and Latvia in 1925 (Lään, 2006). The early years were financially and technically unsustainable. The license fee was comparatively high and subscribers were low. This caused problems with investments which further reduced the growth of subscribers because the broadcasting coverage remained limited (Lõhmus & Vihalemm, 2004, p. 92; Trikkel, 1977, p. 202).

This situation improved only after radio was reorganized into a public company, Riigi Ringhääling, in 1934. By 1940 radio technology in Estonia had reached the average European level (Lään, 2006). To improve the coverage a 196.6 meter broadcasting tower was erected in the middle of Estonia (at Türi) in 1937—the highest in the region and the most modern construction in Europe at that time. The triangular antenna tower stood on insulators without stay wires and unfortunately was destroyed by retreating Soviet troops when the WW II front reached Estonia in 1941.

Pre-war broadcasting shaped good radio journalism traditions, and listeners loved their broadcasters, which were removed by Soviet ideological functionaries and only partially revived in late 1950s after Stalin's death and Khrushchev's thaw. Most pre-war and wartime broadcasting personalities (except for technicians) were eliminated: emigrated, deported, imprisoned, or otherwise repressed.

Beginning in 1940 the Soviet regime introduced different patterns for radio broadcasting. The propagandistic nature and ideologically censored content yielded listeners with what

Trikkel (1998) called “extra fastidious listening syndrome” (p. 41). In plain language a listener did not care to listen to texts filled with hurrah-pathos providing odd political attitudes and lacking features of interest or utility for Estonians. The broadcast text primarily followed Soviet doctrine, the radio communication features described by Scannell (1996), including personality, sociability, sincerity, spontaneity, and involvement, remained missing. The broadcasts were thoroughly prepared, approbated and punctually performed (including interviews and “live” on-the-spot reports from sources such as traditional song festival processions).

The second half of 1950s brought a “vernal ice drift” of new genres and formats (Trikkel, 1998, p. 50). A new generation of reporters and editors introduced lively radio styles which were absent from Soviet practice and rare even in the 1930s, as “there was no haste around then. Only the World War 2 brought along the hurried schedules for radio” (Trikkel, 1998, p. 50).

The Khrushchev era abandoned direct physical repression of people and permitted certain liberties which allowed a measure of cultural revival. Cultural relations with Finland were reestablished. For the Estonian intelligentsia the mid 1960s were considered the most favorable years during the postwar occupation. However, the ideological struggle continued by more subtle means, especially through the media, and many of the liberties in fact were illusory—the positive shift was overrated (Sirk, 2004). Still, several new educational and entertainment formats were introduced. Estonia was the only Soviet republic to broadcast more than one republic-level (local) radio program. The all-Union radio in Moscow launched Vikerraadio for Estonia after the 5-day work week was introduced. It was meant to provide more relaxation for the “working masses.”

Estonia was the only Soviet republic in the coverage area of western television and radio stations that came from Finland. Moreover, the Estonian and Finnish languages belong to the same language group and Finnish was easily understood by Estonians. The communist functionaries declared Estonia to be standing “on the frontline of ideological war against imperialism.”¹

Despite good relations with neighboring Finland, the radio and television stations of the Estonian SSR were instructed to provide competing programming to attract audiences to Estonian broadcasts. To achieve that purpose “western” formats were adapted both for journalism and entertainment. No other Soviet-operated radio could employ such formats. These unique aspects affected the choice of music as well. Although emigrated Estonian authors were banned (as well as the saxophone as an “ideologically corrupt” instrument), popular music and western artists were included in the programs. This inclusion was, however, partial and in balance with the communist party ideology.

The 1970s introduced more severe ideological pressure on the media, especially radio and television. Resolutions by the Central Committee of the Communist Party of the USSR established certain normative frames to be accentuated in program titles and used in the content. The use of declarative rhetoric increased along with wider standardization of topical coverage (Lõhmus & Vihaem, 2004). By the end of the 1970s and first half of the 1980s the overall influence of Russian Soviet directives constrained radio production. Live broadcasts were terminated, including news reviews, the volume of western music was significantly reduced, and the number of propagandistic broadcasts increased.

¹ *Eesti parteiorganisatsiooni kogemused töötajate ideelis-poliitilisel kasvatamisel tänapäeva tingimustes* : EKP Keskkomitee esimese sekretäri K. Vaino ettekanne // *Rahva Hääl*, 13. okt. 1982. [Experience of the Estonian party organization in ideological-political raising of laborers under current terms: a speech by Karl Vaino, the first secretary of the Central Committee of the ECP], Cited in: “Meie parlament ja aeg,” <http://www.nlib.ee/html/expo/p90/p2/8283.html> (accessed 1 June 2012).

Radio programming could be divided into two streams: mainstream broadcasts which were highly politicized and ideological and aired at prime times, and the off-stream or late hours which focused on humane and cultural issues (Lõhmus & Vihalemm, 2004). The staff was divided between these two “streams.” Mainstream broadcasters produced loyal works while trying to humanize topics, while off-stream broadcasters focused on issues of interest to the audience. Thus, in spite of strict ideological guidance, the output of radio in Estonia not only included totalitarian mass propaganda, but also represented real values and issues often hidden “between the lines” as they could not always be presented in a straightforward manner (Harro, 2001).

The ability to reflect general and national values helped build an intimate relationship between radio and the audience. Although perestroika and glasnost came to Estonia somewhat later than Moscow and many other regions in Russia, political change began in 1987 on the anniversary of the Molotov-Ribbentrop Pact, with public declarations against planned phosphorus mining in north Estonia. Radio provided honest coverage through the “singing revolution,” confrontation with the pro-Soviet Interfront, and through the final break of the colonial “republic” from legal, economic, and mental ties with the crumbling USSR. This created a foundation of support toward Estonia’s radio and television at a critical moment when Soviet troops were about to take over the electronic media. Thousands of people gathered at radio and television stations and created a perimeter around them. This would have never happened if radio had been merely a voice of the regime. The protest of August 19 and 20, 1991 resulted in Estonian radio being the only radio in the USSR which was not taken over or cut off by the regime.

New Era After Regaining Independence

This legacy laid a foundation for the development of radio in Estonia as an independent state. The previous journalistic culture, along with Finnish examples of how media operates in a free democratic society, shaped radio operations in Estonia until the turn of the millennium when commercial radio abandoned the public service assets which had been a strong part of Estonian radio.

The system of a “state radio” was officially abandoned in 1990 when Estonia declared its radio and television independent of authorities in Moscow and the restructuring of radio into a public service institution started. Radio and television were separated into two media organizations. Formally (legally) public service principles were institutionalized in 1994 by the Broadcasting Act. In practice it has taken a much longer time to comprehend the essence of public service by the broadcasters, the political elite, and the general public.

The structure, output quality, and sociability of radio in the early 1990s resembled the model of public media systems in the Nordic countries. The structural stability, journalistic professionalism, and variety of the output were characterized as socially responsible intensive journalism (Lõhmus & Vihalemm, 2004).

The appearance of commercial radio stations—first local, then regional and seminational²—led to changes in public broadcasting, both regarding its structure and its programming. The number of employees was dramatically cut from 720 in 1991 to 279 in 2002 (Lõhmus & Vihalemm, 2004). Musical groups such as the mixed choir and variety orchestra were

² Formally the Broadcasting Act (1994–2011) allocated national licenses only for television broadcasting. A *local license* provided coverage in range of one antenna facility. Anything in between was formally *regional*, including coverage from 25% of the country up to 80%. The Media Services Act (2011) does not provide *local* licenses for radio services (due to standardizing the list of license types with television and going digital there cannot be any local television operating). Coverage areas with fewer listeners than 50% of the potential audience of the country require *regional* licenses, and more than 50% requires a *national* license. This reveals the state media policy toward local radio and the value of local communication.

disbanded, and the sociology unit used to conduct audience research was eliminated. All local news correspondents except for those in the second biggest largest city Tartu were discharged. (These correspondents since been restored). Also the thematic-based editorial structure has been replaced with channel or program-based structures. The producer is now the key position in radio. These changes exhibit the values of decision makers.

Financial cuts impacted public radio, although not as much as public television (see, for instance, Loit, 2005). Financially public radio can be characterized by frequent lack of finances (e.g., for maintaining audio archives) and exceedingly expensive acquisitions, especially regarding technological equipment. However, the energy of the Broadcasting Council, a supervisory body appointed by the parliament, largely has focused on the problems related to the Estonian Television in 1998–2001, so Estonian Radio experienced a relatively peaceful subsistence.

The financial issues of public radio have not been on the public agenda. As of July 2007 public radio and the public television were merged into a new legal entity— Estonian Public Broadcasting (Eesti Rahvusringhääling). From that point budgetary issues include both radio and television, and the proportion of funding for radio cannot be seen in detail. The re-elected chair of the entity, Margus Allikmaa, admitted in an interview to the daily *Eesti Päevaleht* that at the moment of the merger salaries in radio lagged behind those in television, a trend which continues today as the economic recession cut off the financial capacity for equalization (Allikmaa cited in Tankler, 2012).

In smaller countries in Western Europe (e.g., Austria, or the Scandinavian countries) public service broadcasting (PSB) is financed at a level of over 80 Euros per capita, the corresponding level in the Baltic States (Estonia, Latvia, Lithuania) stays considerably less. Among the latter countries, Estonia offers the most financial support, which is below 20 euros per capita. Lithuania is below 5 euros and in Latvia below 10 euros per capita (Nikoltchev, 2010). In Estonia, there is no license fee applied to funding PSB, but the state allocates financing directly from the state budget. This allocation is determined by annual adoption of the state budget and thus not predictable for long-term planning. The Estonian National Broadcasting Act (Art. 9) obligates the National Broadcasting Council to annually draw up a development plan for the following 3 years, however, it has had no stabilizing effect on the funding processes (Loit, 2005, pp. 582–585).

As of July 2002 public television carries no advertising—a consensual political agreement made by different players in the broadcasting market that was transformed into a legal provision. A similar principle was introduced for radio in 2005. The number of television licenses was limited to two and broadcasters paid a fee for the license. This provision was valid until the development of digital broadcasting when the number of licenses grew and several small niche television

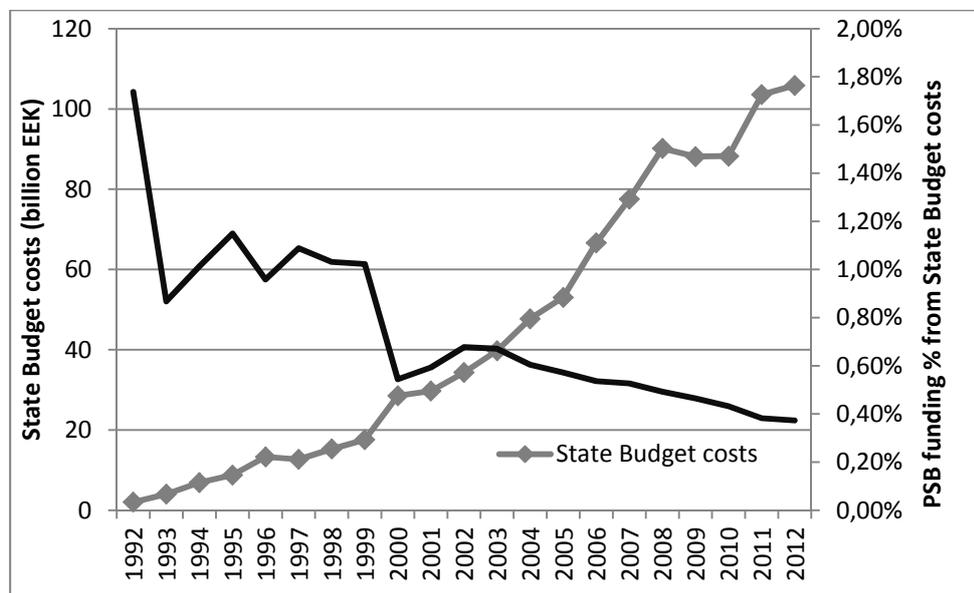
service providers emerged (for more, see Loit & Siibak, 2012, forthcoming). Radio never paid such a fee for maintaining an ad-free environment. This was arranged as part of the consensual agreement mentioned above. Public radio aired ads in half of its programs, according to private radio broadcasters, with an advertising market share of around 10% which was not comparable to public television's 38%. As a result there was no motivation for private radio broadcasters to pay a fee to support public radio. Freeing radio from advertising was simply a "side effect" of the larger settlement.

The analysis of state budget allocations for the PSB throughout 2 decades reveals that the media policy decreased the proportion of the PSB funding from the general state budget— from 1.7% in 1992 to 0.42% in 2010 (Jõesaar, 2012). The estimated budget for producing public radio programming (4 C 1 channels) in 2009 was about 8 million euros, while all private radio stations together earned 7 million euros (Luts, 2011) (see Figure 1).

Andres Jõesaar, the former chair of the National Broadcasting Council, whose Ph.D. research explores PSB-related issues, claims that the PSB ought to maintain its role as a medium independent from market forces that level content. In the European media system this includes a stable legal system and financial resources.

The public service media need to sustain the role of protecting national cultures and languages vulnerable to effects of globalization and commercialization. When commercial channels in large states find the resources to attract smaller interest groups, then commercial organizations with very limited resources in small countries must focus on maximizing profits through entertainment programs. For these purposes the independent public broadcasting requires solid legal framework and an adequate funding system. In Estonia, the first requirement has been fulfilled. As to the second—we hold a slightly better position than our immediate southern neighbors, but it is a long step to reach the European level. (Jõesaar, 2012)

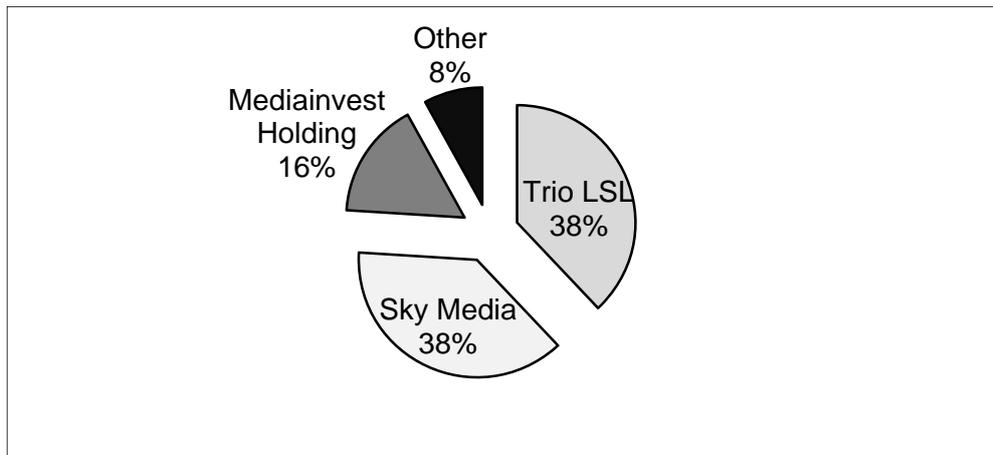
Figure 1
Share of PSB funding (%) out of State Budget costs, compared to the overall State Budget costs (billion EEK), 1992–2012



Note: Compiled by Andres Jõesaar. 1 EUR = 15.6466 EEK.

Private commercial radio has exhibited profitability only for large media corporations. As displayed in Figure 2, less than 10% of the total advertising is available for individual, often local, radio stations, while two large corporations—Trio LSL and Sky Media—each hold up to 38% of the market. The third biggest radio company—an affiliate of TV 3—holds 16% of the market. The affiliate company does not have as many stations, and frequencies are extremely limited. Despite the comparatively large portion of radio in the overall advertising expenditure (around 10%) most radio stations in Estonia are still based on enthusiasm and passion for programs, especially news and talk (Table 1).

Figure 2
Estimated breakdown of the radio advertising market in 2009



Source: Luts (2011), based on TNS EMOR. An interview with Priit Jõgi, the CEO of Trio LSL, confirms this data applies to 2010 and 2011 as well.

The Story of Private Radio

The idea of launching a local radio station in Tartu appeared long before Estonia pronounced itself fully independent. Radio Tartu, in Estonia's second biggest city, is based on cooperation between local municipal authorities and public service radio. On September 30, 1991, the station was on air and for about 10 years stayed among the first choices of residents of Tartu. This was supported by the technical ability to broadcast on both 70 MHz and 100 MHz—no other radio station had that opportunity except for public service broadcasters. Newcomers were provided with frequencies in the 100 MHz band whereas the population possessed old receivers with the 70 MHz band. Later Radio Tartu operations became a fully private possession, partially owned by the largest newspaper daily, Postimees. After the publisher obtained shares in one of the largest radio corporations, 32% of Trio LSL, radio operations were merged and the first local radio station was closed in 2003, primarily to avoid self-competition.

The first fully private radio station to emerge was Radio Kuku in the capital city Tallinn. Its inaugural day was March 1, 1992. The staff was primarily former PSB employees. Soon Kuku expanded to Paide, Viljandi, and Tartu where a large amount of local programming was produced. Today, only Tartu offers some local slots that preserve Kuku's programming—mainly for economic reasons. Kuku belongs to Trio LSL and its talk and news programs are the only ones among private radio formats and could not be changed, even by the former foreign investor Metromedia International. As of 2004, 66 percent of Trio LSL was owned by Communicorp Ltd. Altogether it operates six radio stations on 31 frequencies, two of which broadcast in Russian.

Table 1
Breakdown of Advertising Expenditure 1995–2011

	1995	2000	2005	2010	2011
Internet	–	1,9%	3%	14,6%	15,5%
Outdoor	5	4,6%	6%	8,7%	9,2%
Radio	8	11,3%	8%	9,8%	9,9%
Television	23%	23%	27%	31,9%	31,7%
Magazines	9%	13,6%	12%	6,3%	6,4%
Newspapers	55%	45,6%	44%	28,7%	27,3%
TOTAL (m€)	0,2	43,1	73,2	66,0	72,2

Note: Source: TNS EMOR.

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The first private radio from outside of major cities—Raadio Kadi—appeared in Kuressaare (island Saaremaa) on October 26, 1992, and has been operating since. Along with local newspaper publishing the radio has extended to neighboring islands of Muhu and Hiiumaa. Many of the first local stations started as regional radio offices, often located at local newspaper offices. During the Soviet era those radio stations provided local news for the Estonian Radio’s programs broadcast over local wire-networks usually once per day. Some of these radio stations developed into full-time local radio (in Pärnu, Võru, Põlva) affiliated with other stations or larger networks (Paide, Viljandi, Rakvere), or ceased (Kuressaare, Kärđla). Most of these wired radio operations obtained broadcasting frequencies, except for Saaremaa Raadio, which continued to contribute to PSB’s programming, but currently has terminated its radio operations. The company continues publishing local newspapers in two major islands, and keeps the word “radio” in its corporate name.

The other large radio corporation is Sky Media which has been operating under various trade names and legal bodies. It started operations as Russian-language Sky Radio and has grown into an enterprise holding 6 and operating 5 stations on 31 frequencies with 2 stations broadcasting in Russian. Large private radio corporations have introduced sustainable business models, but local radio tends to rely on passion and enthusiasm for the work or a relationship with another business. For instance, crossword puzzles and publishing help support Raadio Kuma (Paide), ferry shipping contributes to Raadio Kadi (Kuressaare), and building materials help Raadio Ruut (Valga). Even non-profit Christian radio (Pereraadio, Raadio 7) has consolidated into centralized networks to optimize costs. However, despite poor economic conditions, when a local station disappears a new one starts. This has been the case in Põlva, Pärnu, and Rakvere.

The number of radio stations in Estonia remains constant at around 30. The largest players—Trio LSL and Sky Media—operate six stations each, the third largest player, Mediainvest Holding, operates two stations. Other operators have single stations. Eight stations broadcast in Russian. Most radio stations belong to domestic owners, except for Trio LSL and Mediainvest Holding (Modern Times Group MTG AB).

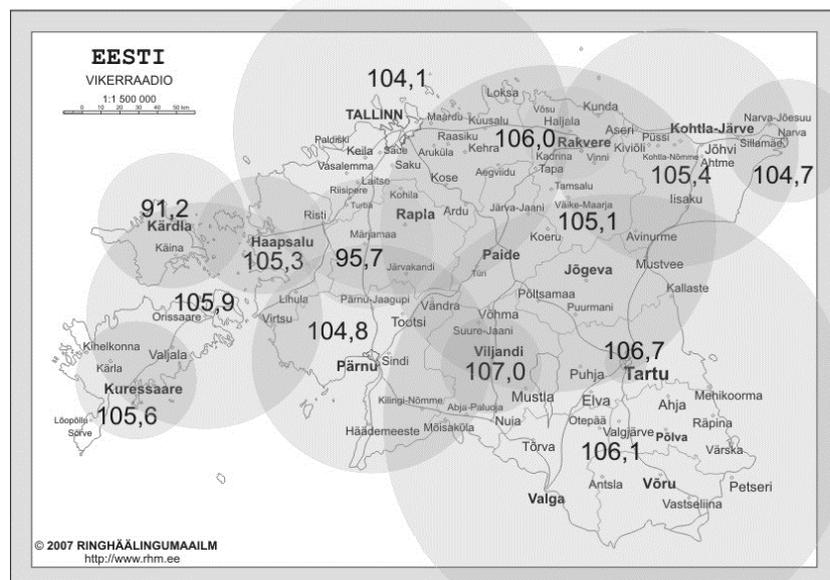
Coverage

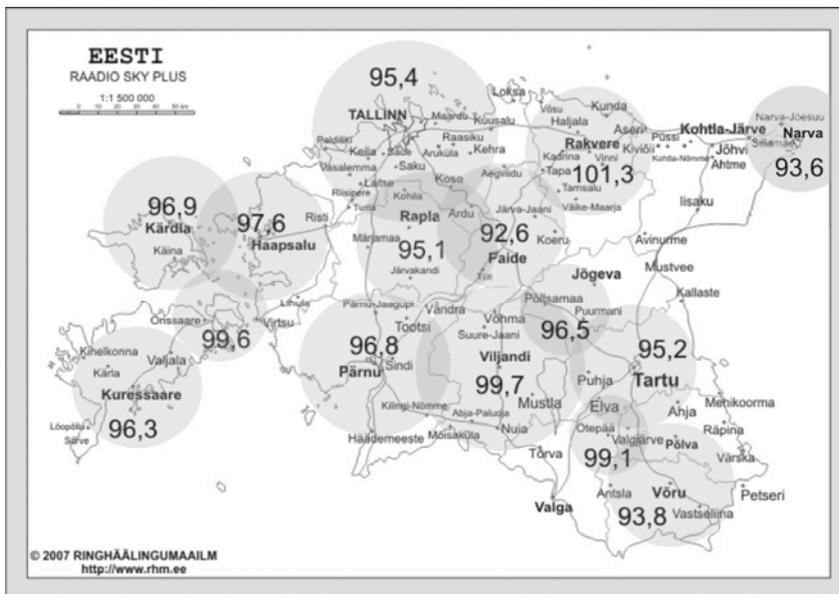
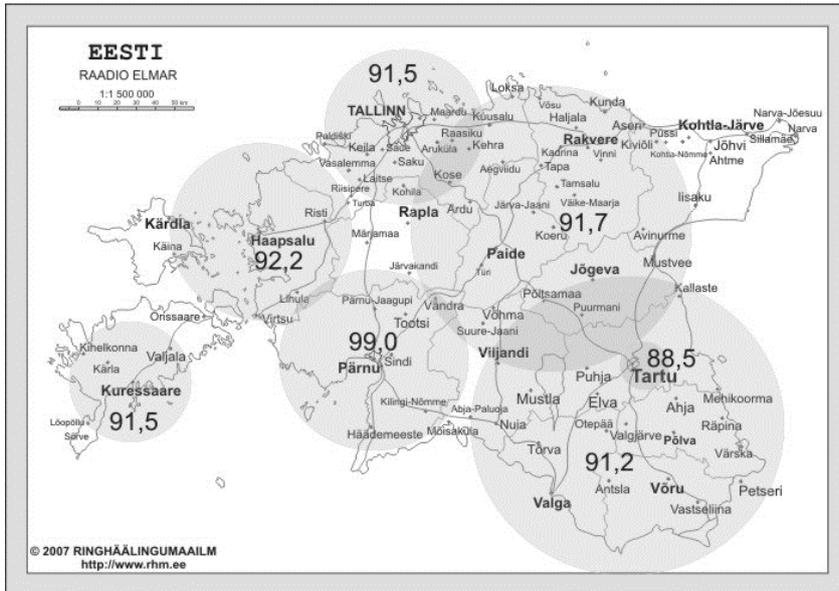
FM frequencies for broadcasting are scarce and are distributed unevenly in Estonia. When the 100 MHz resource was agreed upon in 1984, the Soviet Union utilized the OIRT FM broadcast band (covering 65.8 to 74 MHz) and the 100 MHz band was used for military purposes. In 1992 the emerging private stations were provided with 100 MHz frequencies. In the beginning transmitters were working at low power (300 W) because international coordination of each broadcasting frequency was needed. In most cases this was done on an ad hoc basis and today the general frequency plan does not provide consistent coverage options across the country. In some cases the resources suitable for radio broadcasting in Estonia are used abroad, for example in Russia for transmitting television signals in the VHF band. The OIRT FM band was abandoned by 2000 (Levira, 2012).

The effective radiated power of transmitters broadcasting PSB's programs extends to 10–30 kW (the highest is 38 kW at Valgjärve in SE Estonia), while private stations reach 0.7–3 kW (Ringhäälingumaailm, 2012). In the early 2000s private broadcasters initiated a rearrangement of the frequency plan, but rejected the suggested plan for not taking into consideration the existing landscape and antenna systems. The plan required too much investment while the signal quality was not guaranteed. Thus, coverage has not improved over the last decade (Luts, 2011).

Figures 3.1, 3.2, 3.3

Coverage maps of the three most-listened radio stations: Vikerraadio (the PSB), Elmar (Trio LSL), and Sky Plus (Sky Media)





Source: Ringhäälingumaailm, www.rhm.ee. 2007.

Note: No comparable maps are available after 2007. However, the maps exhibit the extent of disparities between different coverage areas of the radio stations with the largest audiences. The map of Sky Plus has been updated with its coverage area in Narva.

Program Formats

Former chief editor of Radio Kuku, Janek Luts (2011), classified production formats and found a great deal of variety, from fully automated music stations (with advertisements and compulsory news—Spin FM, Raadio 3) to large blocks of original news and talk content (Vikerraadio, Kuku). In spite of this variability stations can be categorized into five general groups (Table 2).

1. News & talk. The proportion of talk to music is 70% and 30% respectively. There are two stations that use this format: Vikerraadio and Kuku. In the late 1990s there was an attempt to operate an all-news and talk format (Uudisteraadio, in Tallinn) but it was not financially viable and struggled with staffing. The speculation was the station started with the help of politically motivated money just before parliamentary elections of 1999.

2. Full service. The proportion of talk to music in the full service format is estimated to be 35% and 65%. Currently, two public service programs match this format: Raadio 2, a station targeting younger listeners, and Radio 4, the most well-established Russian language station.

3. Formatted music stations. Seventeen stations use this format. The public service Klassikaraadio is the only one to broadcast classical music. Attempts by private broadcasters to operate a classical music station failed due to the complexities of copyright issues related to pieces with a duration of over 26 minutes. The other music formats employed are Hot AC and CHR/TOP 40. As the total potential audience is tiny, no narrow formats are used. Niche music such as jazz, house, oldies, country, and others appears in specialized time slots, often in non-primetime segments.

4. Local radio. Local radio does not have a very clear format. As Luts (2011) suggests, the formats of the local radio stations contain various elements of different formats. Also, music has not been strictly formatted and can present a random variety of choices. These programs target local audiences. Altogether, eight such stations can be found.

5. Christian radio. These stations broadcast a vast range of talk, news, church services, clerical music, and other religious content. These stations also offer cultural and educational content. There are two major organizations broadcasting these programs—Pereraadio and Raadio 7. Pereraadio operates the format in Russian for the listeners in NE Estonia (Semeynoye Radio) on FM, and an international program in Russian for Russia, Belarus, Ukraine and other Eastern European countries (Radio Eli) on AM. The latter is the only program broadcast on AM from Estonia.

Most broadcast stations have created on-demand Internet archives enabling programs to be accessed at convenient times. Podcasting as an independent medium has not become widely used, although Internet archives are built on a similar principle (RSS stream, etc.). As a rule, all broadcasts simulcast on the Web (Internet streaming), making content available for audiences elsewhere in the country and abroad.

Table 2
Radio Stations in Estonia in May 2012. Weekly Reach Q4 2009

	Coverage	Format	Language	Weekly Reach %
ERR (5)				
Vikerraadio	100% of the country	News & talk	EST	30
Raadio 2	100% of the country	Full service	EST	14
Radio 4	100% of the country	News & talk	RUS	18
Klassikaraadio	100% of the country	Classic music	EST	5
Raadio Tallinn	Tallinn	AC	EST	1
AS Trio LSL (6)				
Kuku	65% of the country	News & talk	EST	12
Elmar	80% of the country	Hot AC all-EST	EST	24
Uuno	75% of the country	Hot AC	EST	14
Spin FM	Tallinn, Tartu, Pärnu	CHR/TOP40	EST	3
Dinamit FM	Tallinn	CHR/TOP40	RUS	4
Narodnoye Radio	Tallinn & NE Estonia	Rock Hot AC	RUS	11
Sky Media (6)				
Sky Plus	80% of the country	Hot AC	EST	28
Sky Radio	Tallinn, NE Estonia	Hot AC	RUS	13
Raadio 3	75% of the country	Hot AC	EST	8
Russkoe Radio	Tallinn, Tartu, NE Estonia	Hot AC all-RUS	RUS	16
Energy FM	Tallinn	CHR/TOP40	EST	2
Radio Mania	Tallinn	Rock AC Hot	EST	4
Mediainvest Holding (2)				
Star FM	75% of the country	Hot AC	EST	20
Power Hit Radio	Tallinn, Tartu, Pärnu	Dance CHR/TOP40	EST	
Other				
Ring FM	Tallinn, Pärnu, SE Estonia	Hot AC	EST	3
Kadi Raadio	Western islands	Local	EST	3
Kuma Raadio	Järvamaa (Paide)	Local	EST	N.A.
Nõmme Raadio	Tallinn	Local	EST	N.A.
Raadio Ruut	Valga	Local	EST	N.A.
Raadio Marta	Põlva	Local	EST	N.A.
Raadio Tre	Rapla	CHR/TOP40	EST	N.A.
Euro FM	Tallinn	Hot AC	RUS	3
Pärnu Päikeseraadio	Pärnu	Local	EST	?*
Christian Radios				
Pereraadio	Most major cities	Christian-educational	EST	N.A.
Raadio 7	Tallinn, Pärnu, Rakvere, Tartu		EST	N.A.
Semeynoye Radio	NE Estonia	Christian	RUS	N.A.
Radio Eli	(AM) far-East Europe	Christian	RUS	N.A.

Note: Based on Luts (2011, p. 67), updated. Source for the weekly reach data–TNS EMOR.

*This local radio was re-launched in 2011.

Radio Listening

Compared to most North and Central European countries, Estonians are keen radio listeners (as well as television watchers). During a week the average Estonian listens to radio for more than 24 hours (Raudam, 2010). Estonians between 12–74 years old listen to 3.2 radio stations (data of 2007 by TNS EMOR, displayed in Trio LSL, 2012). Estonians' radio listenership has remained slightly over 4 hours per day, while Russian-speakers listen a bit less (and watch more television) at 3 hours and 38 minutes per day (summer 2010, data by TNS EMOR, displayed in Villak, 2010).

The most listened to radio programs among Estonians are Vikerraadio, Elmar, and Sky Plus with 38% of respondents each (respondents listen to multiple stations). Vikerraadio possesses the largest number of daily listeners with 45% of all listeners (data of 2011 by Turu-uuringute AS). Radio diary research by TNS EMOR singled out these stations as those with the most listeners. The survey by Turu-uuringute AS reveals that in 2011 Vikerraadio was the most valued news and current affairs programming (Kaldaru, 2011). Together with Sky Plus, Vikerraadio is also valued for morning shows. Elmar and Sky Plus outpace Vikerraadio regarding music. Elmar and Sky Plus together with Star FM are the most valued for their “wallpaper” function. Twenty-six percent of the total audience prefers to listen to Russian-language radio stations. The Russian-language audience’s first radio choice is Radio 4, and 52% of them listen to Radio 4 for more than half of their listening day. It is the most valued station for news and current affairs (however, 44% of respondents could not single out any station for that purpose). Russkoe Radio rates second to Radio 4 regarding music listening.

Conclusions

The development of radio in Estonia after regaining independence in 1991 was a continuation of the professional culture shaped throughout radio’s development since 1926. The impact of the Soviet era on the understanding of public radio service cannot be characterized as solely “totalitarian” or “ideological” as it contained large blocks of popular content and held private broadcasting values for at least the first decade of the independent state.

Private radio first appeared as local stations, some of which grew into larger radio companies (Trio LSL, Sky Media). Stations that do not belong to radio companies rely on other businesses for support (e.g., print publishing) or are based on enthusiasm. Except for two Christian radio networks, all other private radio stations operate as commercial ventures. The frequency plan of the state is quite spotty and inequitable, thus the coverage areas and available facilities are not congenial for all market players and regions. All in all about 30 radio stations have been permanently operating in Estonia, of which four (plus one local in Tallinn) are PSB programs. PSB—radio and television together forming a national broadcasting company Eesti Rahvusringhääling (ERR)—does not broadcast advertising and receives most of its funding from the state budget, allocated on annual basis.

Estonians have been eager radio listeners and the proportion of radio in the total advertising expenditure is comparatively high. Although the overall advertising market is small and stations lack resources such as funds and personnel, radio has provided a passionate performance and has a strong place in Estonian culture.

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Entry 4

MEDIA POLICY IN ESTONIA: SMALL MARKET PARADOXES

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Media Policy in Estonia: Small Market Paradoxes

Urmas Loit and Halliki Harro-Loit

1. Introduction

Estonia, a small country on the Baltic Sea, re-established its independence in 1991 and became a member state of the European Union (EU) in 2004. The national structure of the country comprises two relatively detached communities: ethnic Estonians (927,000) and a Russian-speaking community (approximately 400,000), which predominantly consists of settlers from the Soviet era of various ethnic backgrounds.

In order to contextualise this chapter on Estonian media policy within the academic media-policy analysis, we start with the notion of media policy provided by Cees J. Hamelink and Kaarle Nordenstreng (2007: 225). When 'speaking of policy we are dealing with both values and management . . . The concept of policy combines these normative and institutional aspects of regulation. It also combines the management by both public and private agencies. In recent years there has been a shift from state-centred policy making to new forms of multi-actor governance.'

Since the early 1990s market liberalism has been the leading political ideology, and press freedom has been fully protected. According to Freedom House, in 2010 Estonia ranked 19th (among 196 countries) in terms of 'global media freedom', sharing the same ranking with Germany (Freedom House, 2010). The Estonian media system is rather influenced by the economic factors of the media market. Political parallelism between the political system and the media system in Estonia is observable only to some extent regarding the local media.

The size of the market is an important contextual factor that has an impact on media policy (Puppis *et al.*, 2009). Concurrently the Estonian market (with a total population of 1.36 million, of whom about 900,000 consume Estonian language media (Statistics Estonia, 2010)) is predominantly shaped by two media conglomerates (Eesti Meedia and Ekspress Grupp), which together possess four national dailies and three national weeklies, including joint ventures for tabloid and magazine publishing, and so on.¹ Delfi is the only converged online news-producing portal, which is owned by the Ekspress Grupp, and which maintains a wide audience in both language groups and provides visitors with a popular forum for commenting on news items. In addition, commercial television channels compete for audience, while the digital turn has revoked fragmentation. Public broadcasting does not compete for advertising. The Baltic News Service (BNS) is the only news agency in Estonia, and it operates across the Baltics. The local media are represented by nearly 25 commercial newspapers (appearing three to six times a week, with mainly county-based coverage; of which five belong to one of the two dominant media corporations, Eesti Meedia) and a few (six) local radio stations. Local television has been excluded from the list of broadcasting options due to the technical aspects of the state's digital television policy.² On a local scale most municipalities own and publish their community gazettes. These are formatted as journalistic publications but at times they are administered as public office divisions,

¹ Possessions of Norway's Schibsted comprise national dailies (Postimees both in Estonian and Russian), two national television channels (Kanal 2 and Kanal 11), and a radio group with six stations, of which many operate semi-nationally (including the largest private talk radio Kuku). The Estonian media landscape has been described in detail in Loit and Harro-Loit (2010).

² To effectively utilize mux resources the television coverage must be at least regional. The policy making on the technical aspects of radio spectrum use lies with the Ministry of Economic Affairs and Communications.

that is the municipal authorities interfere in the editorial independence of the outlets,³ especially in cases of approaching elections.

While the business model of professional journalism is changing – with the news stream provided on the internet ‘for free’; with increased commercialization coupled with the reduction in independent journalistic content production due to the activities of the public relations sector, which has more resources to provide the media with ‘already journalistically wrapped’ news, while the online departments are always hungry for news (Harro-Loit and Saks, 2006; Balčytienė and Harro-Loit, 2009) – the sustainability of professionally produced news media is in peril. This is so because the production of quality news demands more resources at a time when media organisations are cutting down editorial costs.

The aim of this chapter is to examine the press and audiovisual policies in Estonia, pointing out the major legal acts that influence media performance together with court practice. The analysis focuses also on the activeness or the passiveness of different bodies and institutions, which influence regulatory intervention in the media. Several cases presented in this chapter reveal tensions between different stakeholders and values on the media playground. Finally we shall deconstruct some paradoxes between the liberal media policy that supports free and democratic media, but concurrently runs against some basic functions of the media in a small nation-state: the construction of national identity and culture.

2. Media policy in Estonia

There is no concisely formulated media policy strategy adopted in Estonia (like the UK Green paper of 1995, etc.). The missing media policy strategy, and the public discussion that involves different stakeholders and usually precedes such a strategy, might be a reason for the tensions between different actors. In fact, there is no special media law. Only broadcasting and public service broadcasting are regulated by special laws. Most of the legal regulation of the media is governed by general laws.

Until the millennium shift, the discussion on media policy mainly focused on broadcasting policy. The government’s role for setting a balanced framework for the development of private broadcasters’ commercial interests and public interests has been rather passive. As the then Minister of Culture Raivo Palmaru noted, when the EU Accession Monitoring Program’s (EUMAP) pan-European report ‘Television across Europe’ (2005) was launched – recommending the formulation of clear policies in broadcasting,⁴ ‘the broadcasting policy of Estonia involves not having any written policy document whatsoever’. As explained by the Ministry of Culture, which is the governing body for the media sector, the policy should present itself in the form of legislation rather than slogans (Peeter Sookruus, cited in Kenk and Raiste, 2010). The previous minister Laine Jänes (2010) drew attention to the issuance of broadcasting licences and the allocation of financial resources for public service broadcasting as the main features of an ‘emerging’ Estonian broadcasting policy, when replying to a parliamentary interpellation scrutinising the issuance of a local radio licence in Estonia’s second biggest city, Tartu. The minister claimed that the state cannot impose any qualitative requirements on private broadcasters and that the licence conditions may only generally prescribe that programmes must not violate the constitutional freedom of expression. Thus, the supervision of private broadcasters focuses on measuring the seconds of advertising airtime rather than implementing the requirements for programme content.⁵

The Ministry of Culture prefers to avoid qualitative monitoring over broadcasters, even though the Broadcasting Act enables that. The minister explained that the broadcasters have the right to

³ See cases no. 432, *Editor of Sindi Sõnumid v. the mayor*, 2 December 2009, and no. 390 about the dismissal of the editor of the gazette of Urvaste rural municipality, of the original press council (ASN), 4 December 2008, <http://www.asn.org.ee>, date accessed 15 June 2011.

⁴ Report’s national launch event, Hotel Olümpia, Tallinn, 14 December 2005.

⁵ Article 17 of the Media Services Act lays the burden of compliance with the principles of good journalistic conduct on ‘responsible editors’.

decide their programme content themselves. 'The state cannot start assessing the quality of radio programmes and evaluate every particular show', the minister clarified (Jänes, 2010). She referred to the superiority of the Constitution⁶ and the freedom to disseminate ideas, opinions, beliefs, and other information and, moreover, to the inadmissibility of censorship. 'The State cannot penalise broadcasters for using irregular language,' the minister said, alluding that the quality of programming should rather rely on professionalism, ethics, and editorial self-regulation.

Partially, this can also explain the ministry's prudence towards scrutiny over broadcasting output regarding legal provisions and licence conditions. Since 2004, the ministry has been hiring the market research company TNS EMOR to regularly monitor television broadcasters' compliance with the rules on advertising placement and programming quotas. Concerning other issues, the monitoring has been random and limited (Loit, 2005: 574; Jänes, 2010).

In 2009–2010 the Ministry of Culture purchased three monitoring reports on three local radio stations, providing some qualitatively enriched quantitative research on their programme output. In two cases the monitoring revealed several infringements of the law and their licence conditions, and the Ministry prescribed lawful conduct. However, no follow-up surveillance took place to establish whether the prescript had been complied with or not. In many cases a corresponding scrutiny is initiated by a complaint by a concerned party. However, supervision is often limited to contentment with the operators' reply to an official inquiry – the findings turn out to be satisfactory if the inspected broadcaster claims its operations match the requirements.⁷

The question of monitoring becomes increasingly important as the Estonian local media are politically and economically more vulnerable than the media operating at the national level. In the mid-1990s the Ministry of Culture rejected the initiative of the Association of Broadcasters to find stable financing for local radios to ensure talk programmes and other journalistic content, like in the Nordic countries.⁸ Nor has the initiative found any subsidy since. Thus, the policy makers have avoided assigning the local media the role of a non-profit, communicative organisation serving the community.

As for extra-judicial institutions, there is no independent regulatory body for the media or at least for broadcasting (audiovisual) media services in Estonia. Allegedly, this is the only such case in Europe (Šein, 2010). Establishing an independent regulator has been a recommendation by the Association of Broadcasters (repeatedly in the 1990s), the EUMAP monitoring report (Loit, 2005), the Ministry of Culture itself (Estonian Ministry of Culture, 2002), and the recent EU Audiovisual Media Services (AVMS) Directive.⁹ However, the idea got stuck in legal discussions about its compatibility with the Constitution, which provides a complete list of independent state institutions, due to the structural efficiency of particular government agencies and administration costs (Loit, 2005).

In such a situation, it would be vital to keep enough financing for a public service broadcaster (PSB). According to the analysis of Maarja Lõhmus, Helle Tiikmaa and Andres Jõesaar (2010), the parliament has not encouraged the PSB define a strong long-term strategy. Rather the constant deficit financing has extinguished the spark. As financing is the only instrument in the hands of the state to influence the management of the PSB, one can assume that the deficit tends to have a political character (Loit, 2005: 584). Of course, resources altogether are limited in a state with an annual budget of €6 billion. In comparison with other post-communist countries where the

⁶ Article 45 of the Constitution of the Republic of Estonia.

⁷ That kind of monitoring methodology appears to find confirmation in the minister's letter of reply to the initiators of a local radio station re-launch in Tartu of 6 May 2010, Ref. no. 9.1-671.

⁸ The Ministry of Culture argued that state financing would affect the editorial independence of local radios. However, the local radios find it hard to make ends meet and highly professional journalistic content is not their primary concern.

⁹ Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation, or administrative action in member states concerning the pursuit of television broadcasting activities, OJ L 332, 18 December 2007, p. 27.

process of media politicisation is observed (especially in Poland, Hungary, and Romania) (Dobek-Ostrowska and Glowacki, 2008: 12–15), the Estonian broadcasting and media are generally dominated by economic interests.

In addition to the broadcasting policy another issue concerning the media policy is the protection of personal rights versus media freedom. In Estonia the legal and public discourse has not distinguished between press freedom and the freedom of expression. According to Helen Fenwick and Gavin Phillipson (2006: 21), this approach has benefits for the media (particularly powerful media corporations): the media are treated as if they were the powerless speaker. As they state, drawing on the work of Eric Barendt, *Freedom of Speech* (2005), 'the media should not be afforded any blanket privileges in comparison with individual speakers, but rather, any claim of privilege should be thoroughly scrutinized against the underlying rationales for free speech that justify the value we attach to free media in the first place' (Fenwick and Phillipson, 2006: 26). As the Estonian society escaped from censorship only in 1990, and for a long period of time the commercialization and the operations of the media market had been an underdeveloped discourse, the 'blanket privileges' were legitimised for the Estonian public in the 1990s. A publication (or a programme) may cause unjustified pain, but courts have seldom awarded major indemnities for moral damage. The largest moral damage ever awarded was in the 2002 case *J.P. v. AS Inforing*,¹⁰ for the unlawful identification of a rape victim. The analysis of four decisions of the Estonian Supreme Court concerning moral damages in defamation cases in 2008 (Lillsaar and Vutt, 2009: 17) shows that 'in most cases the judges have in the last instance established that indemnities for non-patrimonial damage in cases of defamation and/or cognisant disclosure of incorrect information shall rather be denied'. Only recently the courts have started to pay attention to the complexity of information law and the economic aspects of press freedom.

In addition to the political forces in a small and oligopolistic media market, the personnel policy of media organisations has strong influence over journalistic performance and autonomy. Concurrently, owners and editors-in-chief as media-political actors are far less visible to the public than the political actors. Bearing in mind that the largest national dailies are either wholly owned by foreign investors or co-owned with a national company, it is then relevant to ask how staffing decisions influence the journalistic performance and the media culture (Lauk, 2008: 202). According to Gillian Doyle (2002: 19), 'Whatever regulatory measures are in place, the opportunities for media owners to assert indirect influence over the content and the agenda of products they own seem so comprehensive as to defy any absolute guarantees of separation. An owner's influence may manifest itself in the choice of key personnel, or in strategic decisions about which resources to reduce or invest more in, or in arrangements for sourcing or distributing content.'

The outstanding Estonian media owner Hans H. Luik (president of Ekspress Grupp) has declared in 2010 that the power in *Eesti Ekspres* (the corporation's 'flag product') lies in the hands of the staff meeting, for example journalists collectively make the decisions concerning the content of the newspaper (Luik, 2010). This declaration does not explain the newspaper's personnel policy, but at least shows that the owner of the corporation is publicly discussing the role of a media organisation in media policy. On the other hand, foreign owners and their decisions and motives concerning personnel policy remain opaque. In 2005, when a group of Estonian political leaders sent an open letter to the management of the Schibsted Group claiming that *Postimees* had become a messenger of the political line of one particular party, the response from Schibsted headquarters was that they conduct business in Estonia and trust the local managers with their editorial independence without getting involved (Lauk, 2008: 202). As the first objective of local managers is to guarantee profit to the investors, it would be in the public interest to ask about regulatory tools that motivate the leaders of media organisations to invest in human resources. The liberal declaration about editorial independence should be critically discussed in public, but under the mask of big international corporations the role of owners remains hidden.

¹⁰ Supreme Court, case no. 3-2-1-138-02, <http://www.riigikohus.ee/?id=11> (in Estonian), date accessed 15 June 2011.

Today, media education is important for the EU's education as well as media policy (Harro-Loit, 2010). Estonia holds the best position among the Baltic countries (Harro-Loit, 2010), since the national curriculum includes elements of media education. The cross-curricular theme 'media education' was introduced to the National Curriculum in 2002, and curricula in the mother tongue also include media education with a focus on different types of written texts (Harro-Loit *et al.*, 2007). In sum, on the curriculum level the media educators have been active for about a decade (Ugur and Harro-Loit, 2010).

2.1. The actors participating in the formation and conduct of media policy in Estonia

The following schema presents the main actors influencing the media policy in Estonia: interest groups, institutions, and organisations. The main idea of the schema is that actors and 'themes' (normative domains) of media policy are not equally 'active'. In some normative domains the implementation of existing laws and regulatory mechanisms is an ongoing process, while in other areas few norms are rarely (or not at all) implemented in practice (Figure 5.1).

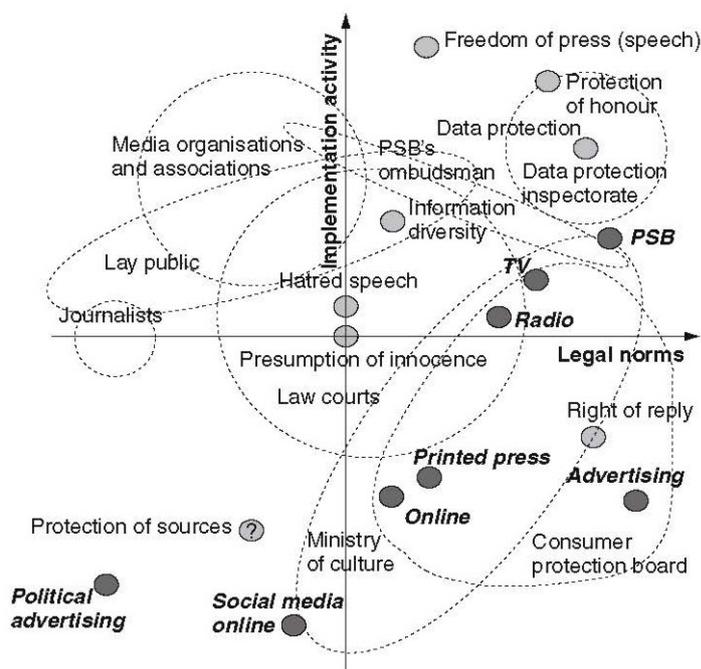


Figure 5.1 Mapping Estonian media policy

The schema embraces three types of elements: the actors of policy formulation and implementation (groups, organisations, or institutions, like the Ministry of Culture, law courts, the lay public, journalists, etc.), marked with dotted lines, elliptical, and round shapes as an area; media types and formats (e.g. the printed press, online, advertising, political advertising, etc.), marked by black spots; and the themes or normative domains (e.g. the right of reply, hatred speech, etc.), marked by grey spots. The fields marked with a dotted line indicate the areas where the group, organisation, or institution is most active. The Y axis is about implementation activity (the upper part of the axis marks higher activity). The X axis designates the extent of legal coverage of particular themes (or normative domains) by laws and other statutory rules, including codes of ethics (the left part of the X axis).

Accordingly, sector 1 (top right) depicts both detailed legislation and active interpretation/implementation and monitoring of the rules. Sector 2 (bottom right) presents the domains for which legal norms exist, but where surveillance is weak, non-existent, or has no impact on the media's performance. Sector 3 (bottom left) represents the spheres for which legal regulation is slender and so is the interpretation. Finally, sector 4 (top left) comprises the sphere

of self-regulation and the forces acting within this framework. There are few 'state' regulations in this sector, but the codes of professional conduct include various normative domains. The implementation activity in this sector is high because self-regulatory bodies deal with many cases, and public discussion takes place concerning a variety of issues regarding media policy (for instance in relation to public broadcasting programmes and public communication ethics or media criticism).

The 'actors' can be particular organisations, associations, or lay members in specific roles. The general public is also included as it can influence media policy: as an information source (e.g. bloggers), a plaintiff taking a defamation case to court, or writing a complaint to press council. Without complaints, there would be no interpretation of laws and norms. A single case, a complaint, or a blogger has little or no impact on media policy formulation, but in such a small society as Estonia the cumulative effect should be taken into consideration.

The schema does not refer to absolute measurable indices. The number of cases has been reckoned along with their significance. In several spheres special laws exist or general laws cover most of the sphere, but the media has been touched upon by some isolated rulings, often constituting no precedent.

On the schema the law courts are located in the centre. Most of the court cases concern the individuals' honour. The rulings of the Supreme Court or district courts amount to a couple of dozen during the past 20 years of regained independence. Thus, the courts have not been passive. However, some normative domains (e.g. privacy) have been covered by a few cases, and, for example, the media-related contempt of court or protection of sources has not been an issue for the domestic courts.

A distinction drawn between journalists is also useful: chief editors, influential journalists, common journalists, and journalists whose specialty (e.g. leisure journalism) rarely impacts media policy formation. Chief editors influence media policy via personnel policy and content. There are some journalists who discuss the media issues publicly and who are involved in various working groups and media education. At the same time, the media associations representing journalists or editors/publishers play the role of essential actors.

The various media channels (broadcasting, press, and online) have been pointed out due to various degrees of legal regulation. The schema considers the following regulatory domains relevant to the freedom of speech and media policies: the freedom of expression and press freedom; the right of reply; protection of sources; protection of honour (laws and lawsuits concerning personal defamation); protection of privacy and private data; prejudice (presumption of innocence); and laws on advertising. Protection of sources and the right of reply constitute the two branches of law providing the media with distinctive treatment. Advertising (covered by a special law and several other acts regulating advertising for particular products or services, advertising in broadcasting, and political advertising) has been included in the schema, as there are differences between commercial speech, political, and fictional speech. Political advertising and the emerging social media are the less regulated areas (a sector of vast passiveness).¹¹ The schema further reflects the domains for which there is no detailed regulation (e.g. blasphemy). Hatred speech lies in the middle: some public debate concerning public communication on minority issues has occurred (e.g. depicting homosexuality in the media), and one blogger has received an order to shut down his blog, but no court cases or other complaints are linked to hatred speech.

In the data protection domain several laws regulate the area, and the Data Protection Inspectorate (DPI) is more easily approachable than courts due to its costless proceedings. In cases of unlawful dissemination of personal data, individuals can turn to the DPI, a body conducting extra-judicial proceedings, to speed up the re-establishment of their rights. At the same time some rulings or proposals by the Inspectorate have resulted in preposterous outcomes,

¹¹ Political advertising has been left out of the scope of the Advertising Act. The regulator interprets the law applicable only to commercial advertising in all counts.

for instance, in the case of jubilee congratulations over the radio. Despite this being a cultural phenomenon for decades, joyously awaited by jubilarians over the age of 60, the Inspectorate considered it to be an excessive offence against personal rights, as the jubilarians' age was revealed without their consent. Some days later, the Inspectorate stated that the note made by their PR adviser was unjust (Lattu, 2008). Congratulations thus continued to be broadcasted.

The Prosecutor's Office has full authority to decide upon disclosing data about ongoing investigations.¹² However, in several cases some investigation records that were leaked to the media prior to court sessions, causing harm to the accused persons, innocent witnesses, or sources, proved to be irrelevant to the case. The channels of leaks were never established. In 2008, the problem was discussed in public regarding criminal suspicions against a promising decathlete. The previous Minister of Justice Rein Lang¹³ in his speech at the general meeting of the Estonian Bar Association (cited in Siilivask, 2008) underlined that the principal value of the presumption of innocence needs to be readdressed. The minister was critical about the ruling of the Olympic Committee to deprive the sportsman of nomination to participate in the Olympic Games immediately after a newspaper story about the initial suspicion by the Prosecutor's Office. The Minister also pointed to a wider problem of the violation of individuals' rights by the media (cited in Siilivask, 2008). Concurrently, an outstanding journalist, Mihkel Kärmas, commented on the same case on the radio, saying that 'if there was courage to arrest a person and to file such a serious criminal suspicion against him, there ought to be courage to speak about it publicly. Not informing would be dangerous' (cited in Kahu, 2008). This excerpt illustrates that by 2008, the protection of individual rights was perceived as an assault on press freedom.

Estonia possesses an unconventional self-regulatory system along with the legislator, courts, and government agencies. There are two press councils operating: the original one (Avaliku Sõna Nõukogu, founded in 1991; hereafter ASN) and the press council of the Newspaper Association (Pressinõukogu, founded in 2002; hereafter the ENA press council). The number of complaints (in 2009, 102 for both bodies; approximately 7.5 complaints per 100,000 inhabitants) indicates the sensitivity of the lay population towards the media. On the other hand, the historic background of having two press councils reflects chief editors' discontent with critical adjudications (by ASN), although formally the publishers abandoned the original press council due to alleged misconduct by the then chairman.

2.2. Regulatory instruments

As mentioned above, there is no specific law on media enforced in Estonia, except for the Broadcasting Act and the Estonian National Broadcasting Act.¹⁴ As a result of incorporating the AVMS Directive into national law, the Media Services Act was adopted in January 2011.

The internet services are regulated by the Information Society Services Act, which also includes the principles of the EU Electronic Commerce Directive (2000/31). Inter alia, the electronic media outlets can be considered information society services. Concurrently, in the case of infringement of personal rights, the Law of Obligations Act, the Personal Data Protection Act, and other general laws can also be applied to the electronic media.

The legal framework concerning public information and the media has been permanently modernised and the court decisions, since the Law of Obligations Act came into force in 2002, are more profoundly reasoned. Libel ceased to be a criminal offence; it was decriminalised in 2002, and since then is covered only by civil law. Hence, in the case of defamation, the Law of Obligations Act is applied.

In 2010 a large public dispute took place about a draft law amending several existing laws. This law introduces the protection of journalists' sources of information (heretofore legally applied only to broadcasters; in other media implemented as part of self-regulatory measures) and

¹² Code of Criminal Procedure, Article 214.

¹³ Rein Lang became the Minister of Culture after the parliamentary elections in March 2011.

¹⁴ Relevant legal acts can be found at *Riigi Teataja* (State Gazette, www.riigiteataja.ee). English translations of Estonian legal acts can be retrieved at <http://www.legaltext.ee/indexen.htm>.

principles of punitive damage in cases under the Law of Obligations Act.¹⁵ The protection of sources has actually never caused major problems in practice. The publishers launched several demarches against the draft law (including printing empty front pages of newspapers), mainly against the changes in moral damage regulation, but also saying that regulation concerning the protection of sources should not be formal. After the adopted law was pronounced by the president in December 2010, the Newspaper Association immediately awarded the annual prize of 'Press Enemy' to him.

3. Assessment of media policy in Estonia

In discussing the factors affecting the media policy in Estonia, a central premise is the small size of the market that supports oligopoly, and a liberal approach towards an official regulation of the media. As the concept of policy combines normative aspects with the activity of various stakeholders and cultural and political traditions of the society, the following analysis aims to map these relations and highlight crucial junctions that characterize the current multi-level media governance in Estonia.

3.1. The nature and scope of media policy in Estonia

The analysis of the debate over the protection of journalistic sources and moral damage is a good example that reveals that issues concerning the media and information have become more complex over the past 20 years, and that different stakeholders now and then just do not understand each other. The legal discourse of media and communication regulation has developed among experts so quickly that the public (including journalists) might have problems in following that track. A comprehensive analysis of court cases shaping public communication policies is almost absent in Estonia, although the argumentation of court decisions concerning the media has developed also rapidly within the past 10 years. Lawyers have started to pay attention to information and communication law only recently. The textbook for students of journalism and communication about media regulation was published in 1996 (Harro, 1996), while the corresponding textbook for lawyers appeared only in 2007 (Tikk and Nömper, 2007). In sum, the legal discourse of media regulation and information law is still in the transition phase – not only in the sense of digital change, but also because during the Soviet regime, the legislation did not develop.

The courts' bias towards press freedom, resource-consuming access to courts, and the limited moral damages awarded may serve as one reason explaining the comparatively high rate of complaints to the Estonian press councils. Unintentionally, the existence of two alternative bodies expounding on journalism ethics is beneficial for the debate on professional values. For example, ASN upheld a case against the weekly *Eesti Ekspress*, which included the names of a well-known journalist and a journalism educator in the list of *The 90 Most Hostile Acts Against Culture in the Republic of Estonia* (on the cover page also classified as 'piggish affairs'¹⁶ without any further explanations). The newspaper considered this a 'satiric opinion'. According to the newspaper's explanation, any public figure has to tolerate any kind of opinion towards him/her, even if it is ironical, satirical, or otherwise negative. ASN disagreed that the public figure had to tolerate any taunt and insult, irrespective of its relevance and justification: 'Harm can be justified only in case it arises from the person's own activities when the discussion about it in the media would serve the interests of the general public, as it impacts the community life. In the current case a person has been humiliated only for a reason that it might have been amusing for some people.'¹⁷ However, the ENA press council found the explanations of the newspaper sufficient to dismiss the case. According to the ENA press council, the list was a 'satiric set of opinions or a ranking list'¹⁸ and mainly an issue of taste. On top of it, *Eesti Ekspress* published a follow-up article about the case, concluding that the journalist who made the complaint 'could not take jokes'. The two

¹⁵ Articles 1046 and 1047 regulate personal rights, the protection of honour and the misuse of personal image.

¹⁶ In Estonian: *sigadused*.

¹⁷ ASN, case no. 387, http://www.asn.org.ee/english/c_undue_harm.html, 23 April 2008.

¹⁸ ENA press council, case no. 188, <http://www.eall.ee/pressinoukogu>, 25 February 2008.

adjudications thus reflect diverse views: the decision of ASN supports the universal value of human dignity, while the ENA press council supports the freedom of expression that is not connected to the political debate, but rather serves as creative self-expression (cartoons, art, and so on).

Looking at the self-regulatory system, it has become standard practice for the chief editors to reply to the complaints under discussion and not the journalists.¹⁹ Moreover, journalists have revealed off-the-record that they have been forbidden to respond to ASN's inquiries. Once a journalist actually 'withdrew' her explanations due to editorial policies – which inter alia shows that a professional journalist does not possess the independence and the autonomy at an equal level to that of the media organisations. On the one hand, the inevitability of the oligopolistic environment in a small media market is understandable. Having a disagreement with the employer may lead to losing job options in the entire sector. A journalist from a small locality may even need to settle down elsewhere. On the other hand, the journalists' union performs weakly and has been unable to institute itself against the publishers' association despite its 90 years of history. This seems paradoxical because within such an 'integral' community (with around 1,200 jobs), the odds would rather be in favour of shaping journalistic identity, professional ideology, and of course solidarity.

There is very little transparency of the performance of media organisations. Journalists' decisions and actions usually remain out of the public sphere, while the disappointment in the media output (by the sources, the audience, and the critics) is addressed mainly to journalists. The issue of personnel administration and media owners' responsibilities are seldom discussed in journalism conferences. To achieve any qualitative alteration, the professional status of journalists needs to be reconsidered by making the employment conditions (e.g. what qualities are evaluated and how in order to get a certain job) transparent both to journalists and the audience. An ombudsman as 'insider' would offer more transparency. The probability of hiring ombudsmen that are autonomous from the employer, however, would be inconceivable in small media organisations.

Co-regulation has been suggested by the Personal Data Protection Act and the very recent Media Services Act. Likewise, the Supreme Court has referred to ASN as a body interpreting the Code of Ethics of the Estonian Press.²⁰

3.2. Governance aspects

While discussing the key actors influencing the media governance, Karol Jakubowicz (2007: 199) points out: 'The number of stakeholders in any policy-formation process has grown enormously... .A *mélange* of political and legal structures and a clutter of nation-states and regional and local governments; intergovernmental agencies and programmes, as well as intergovernmental structures with sectoral responsibilities like the WTO; and the International Court of Justice and other global institutions seeking to enforce the rule of law.' Here one may ask if the policies of different levels need to be consistent. As currently is the case, the EU is definitely a major player in broadcasting regulation, and its influence has been strong concerning the regulatory framework for electronic communications, information society services, and audiovisual industry. Concurrently, Estonia belongs to the group of countries where late capitalist developments have led to a rather unregulated control of the media market by the independent supervision authorities (Bardoel, 2008).

Although policy practices vary between audiovisual communications and the press, general laws concerning the information society and the media are framed according to the EU standards (e.g. the protection of sources, freedom of information laws). The argumentation and values from the case law developed by the European Court of Human Rights on the basis of Article 10 of the European Convention on Human Rights are incorporated into the court rulings. Exceptionally, the

¹⁹ This applies to the ENA press council. ASN, as affiliated with the journalists' union, provides letters of inquiry both to the editor and the journalist. Most chief editors have agreed not to respond to ASN's inquiries and have instructed the journalists to follow the pattern.

²⁰ Supreme Court, case no. 3-2-1-17-05.

issues of ownership and the cross-media concentration are not the discussed regulatory issues in Estonia – as the size of the market supports natural oligopoly.

As free trade and the elimination of barriers to international trade has become the new focal point of media governance globally (Puppis, 2008), it is important to ask how liberalisation affects small nation-states. Since the 1990s, the Estonian media and communication policy has prioritised economic interests, hence further liberalisation would work in favour of growing conflicts between culture and commercial values.

4. Conclusion

According to the activity-passivity axis of the schema presented above, the overall picture of Estonian media policies appears to be erratic. In some domains the discourse (i.e. laws, implementation practices, and public discussion) is elaborated and a multitude of cases keep the interpretation of norms alive. In other domains the legislation turns out to be sophisticated, but the implementation of legal acts or norms is passive.

Moving from the scope and nature of the Estonian media policy towards the analysis of dominating values, we can point out different paradoxes. The main paradox of the Estonian media policy lies in the fact that, while oligopoly and monopoly usually diminish media diversity, the smallness of the market favours oligopoly. A heavily fragmented media would have not enough resources to produce media content that has enough quality to serve democracy. At the same time, in order to counterbalance the supremacy of one or two large media companies over the professional community, it would be useful if the media policy were more interventionist or active, representing the public need for balanced and trustful information. At the same time, active content regulation might affect the freedom of expression. The solution would be better media education for lawyers, politicians, and citizens. The transition from the Soviet regime into the Information Society has been so turbulent that media-political discourse has developed erratically.

In a small market, journalistic autonomy is a vulnerable value as the limited job market makes journalists less free to choose between loyalties towards organisational and personal/professional values. Hence, for a small nation-state, the autonomy of the individual journalist should be supported by political means.

The freedom of press (as an institutional freedom) appears to be the most endorsed value in the media policy of Estonia. It emerges from the analysis of legislation and court rulings, as well as from public debates on the principle of presumption of innocence, source protection, and moral damages. At the same time, however, the Estonian media policy lacks analysis and balancing of value dilemmas. Due to the small size of the Estonian market, the media policy in Estonia could place emphasis on the role of the media and communications-related education, both for citizens and the professional community. Unlike in large societies, small communities are able to qualitatively transform in a comparatively short period of time.

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Entry 5

DOES MEDIA POLICY PROMOTE MEDIA FREEDOM AND INDEPENDENCE? THE CASE OF ESTONIA

by

Harro-Loit, H. & Loit, U., 2011
An online report within the Mediadem project

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Executive summary

The second report on Estonian media policy focuses mainly on media policy formulation and implementation by the various actors: politicians, media leaders, journalists and experts. Media policy in Estonia has been supporting the value of freedom of speech since the beginning of the 1990s. Centrally coordinated media policy does not exist in Estonia. Broadcasting alone is specifically regulated but a regular monitoring system does not exist. Print and online media are subjected to general laws that regulate access to information, advertising, privacy, defamation etc. The Estonian media industry enjoys either the lightest possible regulation or no regulation at all.

The major problem concerning the freedom of speech is to balance the commercial interests against the public's need to get trustful, non-biased and professionally processed information. Hence, the role and regulation of public broadcasting is important. In Estonia, public broadcasting is financed from the state budget and does not air advertisements.

The European Convention of Human Rights impacts mostly in legal cases concerning defamation and privacy. In this report, the analysis of the argumentation by the Estonian Supreme Court shows that truth, public interest and privacy values have been balanced in most of the cases during the last ten years.

The self-regulatory system of the mass media includes two bodies, one of which is composed of the various public organizations and the Estonian Journalists' Union and the second that represents the publishers (the Estonian Newspaper Association).

The small size of the national media market favours an oligopoly of professional media channels, affects the journalists' job market and inevitably limits the number of groups and individuals who should negotiate media policy. Due to the smallness of the country, the local media and local communication need special support.

The report focuses on the factors that affect journalistic autonomy (internal and external pressure; access to the job market and journalists perception of journalistic autonomy). The extent of the freedom of expression that the Estonian media enjoys does not mean that individual journalists enjoy the same level of autonomy. Hence, in the small job market the protection of journalistic autonomy and support for journalistic quality is one of the major aims of media policy. The central question concerning the implementation of liberal media policy remains: what would motivate the actors to invest in quality?

The globalisation of media enterprises and the crisis of the business model of professional news journalism contribute to the imbalance between the (non-transparent) commercial values and the interests of a democratic society.

1. Introduction

This case study report is the second report on Estonia of the EU-funded MEDIADEM project. While the first report on the Estonian media policy composed in 2010, provides an overview of the current media regulatory and governance mechanisms in Estonia, this report focuses on how different actors and policy mechanisms promote or constrain the development of free and independent media and how the media is motivated to perform as agent of information and the public debate that facilitate the functioning of democracy.

One of the main conclusions of the first report was that while the national strategy of media politics in Estonia has been liberal since the 1990s and the freedom of speech, and especially the freedom of the press have been highly protected, overall media policy is heterogeneous. In some policy areas there are a lot of regulations and the implementation of these regulations is active, while in some areas few laws or norms are not implemented at all. In the present case study report we shall elaborate the activity-passivity scale of policy implementation¹ and provide some explanations concerning that discrepancy.

The general aim of the present case study report is to analyse the policy formulation and implementation from the viewpoint of conflicting and prioritised values which emerge from different regulatory practices (e.g. court cases, self-regulation, etc.) and market mechanisms. Also the factors conducive to, and adverse to, content diversity are discussed. In this respect the issues concerning the journalistic profession in Estonia are discussed. Finally the specific role and meaning of media literacy in the media political context is analysed.

In the context of the present report, a specific aspect concerning the media policy formulation and implementation should be kept in mind: the small size of the national media market.

The size of the national media market (more precisely, the size of the market for Estonian news media) is an important feature that affects media policy formulation. First, the smallness of the market favours an oligopoly of professional media channels: media convergence and developing cross-media ownership affect the journalists' job market and thus the level of professional journalism and professional ethics, along with media content and output format. On the one hand, a relatively small number of media outlets may serve from the aspect of citizens' solidarity as an advantage for developing a democratic communication space. Too much heterogeneity at the level of media content and outlets easily leads to unwanted social fragmentation of the public. Also, fewer media outlets can collocate resources and provide content quality that would not be possible in case of numerous weak outlets competing with each other. On the other hand, commercialisation and the need for cheaper production might make this advantage dysfunctional. Hence, an oligopoly can easily turn into monopoly and the balance is vulnerable and fragile.

Secondly, as Chris Hanretty (2011: 166) notes, there is a surprisingly large literature on the effects of a country's size on the characteristics of the general media policy. Some authors (starting from Plato and Aristotle) claim that citizens are less effective in larger states whilst other authors argue that small republics are at a greater

¹ The scale has been presented in the earlier work under this project, characterising the passivity-activity evinced by the various media features, types and agents. The scale also delineates the degree of the entries being legally handled. See Loit and Harro-Loit (2012).

risk of being captured by a single faction that could suddenly rise to prominence. This idea could be applied to the media policy. Since Estonia is one of the smallest states in Europe, an advanced development in media freedom (e.g. high protection of free speech, good access to information, high level of media literacy etc.) does not mean that this would be entirely protected against the influence of small groups or individuals who make certain decisions on media policy.

Namely, the smallness of the media system inevitably limits the number of groups and people who should negotiate media policy. As each society needs a certain number of people to fill a relatively rigid number of posts, small societies have relatively few people to fill that number of posts; these people are likely to encounter one another in numerous contexts (Hanretty, 2011: 170). In the context of the present case study this should be taken into consideration: the number of people who have either or both expertise on media policy and have been active in this field is small.

Finally, in the case of small markets there is no temptation for large profits and therefore the threat that economically motivated actors to avoid using ‘whatever method’ to rule the market is comparatively lower than in the case of big media markets.

The second important feature concerning Estonian media policy, elaborated in the first report that should be recalled here, is the fairly simple legal framework which influences the media performance in Estonia. The laws mostly affecting the Estonian media are the following: The Law of Obligations Act entered into force in 2002 and discontinued the criminalisation of libel. The Personal Data Protection Act exists to protect personal data. In the case of unlawful dissemination of personal data the individuals can turn to the Data Protection Inspectorate – a body conducting extra-judicial proceedings – to hasten re-establishing their rights. The Broadcasting Act was passed in 1994 and was amended 33 times before being replaced by the new Media Services Act (2011).

In this report the section *Actors and values of media policy* provides an overview on the performance of actors who participate in media policy formation and implementation; it examines the values and priorities recognised in their activity. In our earlier contribution within this project (Loit and Harro-Loit, 2011), we claimed that different actors are more or less active-passive in influencing media policy. We discussed a schema outlining three factors: actors/stakeholders; regulation (legal acts, norms and codes) and the number of cases which reflects how the laws are being implemented. In this report we will predominantly focus on the values that are being mostly reflected by the representatives of the different stakeholders/actors and the interests of which stakeholders/actors have been most protected. The schema also depicts areas in which the state media policy is the most passive: i.e. there are no laws, laws are not enforced or monitored or even mechanisms for legal interpretation are missing. Vast passivity towards particular value conflicts reveals whose interests tend to be more protected.

The judiciary plays a very important role although there are relatively few lawsuits against the media: for this case study approximately 40 lawsuits were counted since 2000. Still, the Supreme Court in particular has been increasingly active in creating the elaborated discourse on freedom of expression and its conflicting rights. The Ministry of Culture and the relevant Minister shape the implementation of media policy and reflect liberal normative values in their media policy making. The Public Broadcasting and the Council of Public Broadcasting representing the non-

commercial sector play an important role in the context, in which the business model of the commercial media is in crisis. The self-regulatory system of the mass media includes two bodies: *Avaliku Sõna Nõukogu*, founded in 1991 (hereafter: ASN), and the press council of the Newspaper Association (*Pressinõukogu*, founded in 2002; hereafter: ENA press council). These organisations get approximately 7.5 complaints per 100,000 inhabitants. This indicates the sensitivity of the lay population towards the media. Publishers, broadcasters and journalists are the interested groups represented by various organisations.

The section on *The structure of the media market* examines the configuration of the media market. Bearing in mind the specific advantages and risks of a natural oligopoly this section discusses the problems concerning local media.

Concerning media content and diversity we present a special case study on how a local radio, which is obliged to provide local, news does not comply with the licence requirement. As there is no regular monitoring system, the station has not been motivated to follow the positive obligation to produce local news content. This case illustrates the problems of a very liberal approach: the lack of a system that could support the production of local news to comprehensively inform people without any party political bias.

The section *Composition and diversification of media content* also focuses on the application of EU court practices by the national Supreme Court and how the Estonian Supreme Court has been interpreting the legal dilemmas concerning the media during the last decade.

The section on *The journalistic profession* deals with job market conditions, job security and the competence requirements journalists feel they should have; the education and nature of the journalist profession. In the context of newsrooms' pressure mechanisms, externally and internally, we also ask how journalists perceive their professional autonomy. The general aim of this section is to find out what is and what could be the role of the professional community in implementing media policy that could serve the democracy. The presumption of this sector is that although millions of people provide news and information each day, there is still a need for professional, unbiased, framed and verified information.

Finally, the section *Media literacy and transparency requirements* examines the attention afforded to media literacy as a goal of media education in national curricula and the problems concerning the loosely connected education policy and media policy.

The report has been based on a number of interviews with journalists, politicians, media leaders and experts. Several case studies and analysis as well as media policy research papers published in academy as well as articles published in the Estonian media are included as basic material.

2. Values and actors of media policy

The basic value dilemmas concerning freedom of speech are listed in Article 10 section 2 of the ECHR:

‘...The exercise of these freedoms, /.../, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.’ [All emphases in quotations are the authors’]

One can express these categories also as the value of *security*, the value of *privacy*, the value of *human dignity* and the value of *fair trial*. The mutual hierarchies of these values are the core question of a national media policy, especially expressed in the national jurisprudence concerning cases against media organisations and journalists.

Other values directing the national media policy are: *diversity* that refers to the heterogeneity of contents, outlets and ownership; *journalistic autonomy* that is considered to be the basic protection of free speech; *public access to the information/the public needs to be informed*.

Various stakeholders in society in various situations represent different interests. The public interest (welfare of the general public) could be in conflict with the commercial interests of media organisations but also the private interests of individuals or social groups. Fengler and Russ-Mohl point out an important question concerning the kind of *incentives* journalists react to and the kind of *rewards* they seek to attain. We can distinguish between material incentives (money, fringe benefits) and non-material incentives (reputation, influence, social rewards etc.) (Fengler and Russ-Mohl, 2008: 674).

2.1 Who, what institutions or organisations, are governing media policy?

The key actors outside Estonia who influence the Estonian media policy are certainly the EU and the European Court of Human Rights (ECtHR).

The analysis of the rhetoric of Strasbourg case law shows that there is some hierarchy of expression. Political speech receives more protection than artistic speech or commercial speech. As political speech tends to be concerned with the media, the Strasbourg Court has repeatedly stressed the rights and responsibilities of free press/media. But the type of speech is not the sole factor affecting the margin of appreciation (Fenwick and Phillipson, 2006: p 61) The Court often talks about information that ‘the public has a right to receive’. Fenwick and Phillipson ask: ‘If this is the case – that the values of the Strasbourg court are *audience*-based, rather than *speaker*-based – it would follow naturally that the Court would principally be concerned with *media* freedom, *not* individual freedom of expression.’ (ibid: p. 68). The fact that the Court tends to regard interference with media freedom as a more serious matter than restrictions on individual expression suggests that the Strasbourg Court is concerned primarily with pragmatic, consequentialist-based protection of the media’s role in a democracy, rather than a deontological, principled protection of the individual for free speech (ibid: 69-70).

In addition, the Strasbourg Court distinguishes between public criticism of a private citizen and of a prominent politician. The former inevitably and knowingly lays himself open to scrutiny by journalists and the public at large, and therefore the limits of permissible criticism are wider with regard to the government than in relation to a private citizen, or, even a politician (ibid: 1056, 1058). The Court has, nevertheless, found that some measures might be necessary to protect the government from defamatory, false or malicious accusations.

At the same time, in case the fair trial values (and presumption of innocence) are in conflict with Article 10 ECHR, the public person (politician) could deserve equal protection as a private person (*Worm v. Austria*).

As previously mentioned, Article 10 ECHR allows the restriction of the freedom of expression for the protection of the reputation or rights of others and for preventing the disclosure of information received in confidence. Hence, the value the national courts also need to protect is the privacy-related values: personal dignity which is related to shame and embarrassment but also personal autonomy. The legal protection of individual reputation is closely linked to value judgements and assertions of facts. If the libellous remarks are based on thorough research and are factually correct, the serious criticism could be justified (ibid: 1061-1063).

Generally, Fenwick and Phillipson (2006: 20-33) propose four models in order to describe how the free speech interests of the audience, media and individual speakers could be treated:

- The equivalence model – the media (corporations) are treated equally to the powerless speaker.

- The special privileges model - the media obtains special rights like source protection or access to information; the media is given separate and distinct recognition. The Strasbourg Court has at times come close to this model, by giving higher protection to media speech and special privileges to journalists, most notably that of source protection).

- The ‘differentiated privileges’ model - special privileges to the media are accepted only where directly justified by general free speech rationales.

- A ‘variable geometry’ of media model - the best possible expressive environment for the *audience*; the specific regulation of the media is allowed with the aim of perfecting or enhancing speech from an audience perspective; such regulation may include duties upon the media that might be termed ‘anti-privileges’, e.g. ‘right to reply’ provisions.

Here it is important to note that in the 1990s, Estonian court decisions reflected that Estonia mostly belonged to the ‘equivalence model’. Since the 2000s, the Supreme Court decisions (the Supreme Court has in several cases overruled the lower courts decisions) as well as the bringing into force of the ‘protection of sources and moral damages’ legislation in 2011 reflect a shift towards the ‘variable geometry’ model: the audience perspective is becoming increasingly noticeable.

In the European Court of Human Rights only one case from Estonia has been received consideration – *Tammer v. Estonia* (2001). The interviewer called the wife of a prominent politician an ‘unnatural mother’ (literally: ‘female raven’, in Estonian: *rongaema*) and a ‘marriage devastator’ (currently the lady is a Member of the European Parliament). In this case, the ECtHR decided that there was no breach of

Article 10 ECHR and the national sentence remained valid. One of the major reasons was that a criticism against an individual could be expressed without insult. However, the journalist got only a symbolic punishment.

The Estonian Supreme Court has been explicitly referring to the ECtHR decisions in two remarkable cases: in 1997, and later in 2008.

The chair of the Supreme Court explained: ‘The impact of the ECtHR verdicts can only be assumed as the number of direct references to the ECtHR practices within the adjudications of the Supreme Court is small to make generalisations. As to the indirect impact, the practices and trends of the ECtHR reach the Estonian judges via several channels. First, the Ministry of Foreign Affairs manages translation and publication of the ECtHR verdicts about Estonia. Judges read these texts and reapply the embodied principles. Secondly, the Ministry provides Estonian-language overviews of the key practices employed by the ECtHR. This also reaches the Estonian judges. Thirdly, the ECtHR practices have been included in the training of judges. It is obligatory for Estonian judges to regularly attend training. Also, lawyers discuss the ECtHR verdicts in professional periodicals and other outlets.’

At the same time the chair of the Supreme Court Märt Rask emphasised that the law courts need to maintain a neutral position:

‘The Court should not have any ambition to shape media practices or journalists’ professional ethics otherwise than by consistently adjudicating specific cases. Assuming the functions of a media regulator would definitely affect the Court’s objectivity. The role of the law court is rather to remain passive: to assure balance between the freedom of speech and the individuals’ personal rights, when needed.

In practice the courts possess an inevitable role in imposing responsibilities onto the media. The separate cases in an aggregated whole definitely shape the attitudes applied by the media and also frame the preparedness of the general public to commence a lawsuit to uphold one’s reputation.’²

It is important to notice that the chair of the Supreme Court underlines the role of the law courts in assuring the media organisations’ responsibilities. The following analysis (under section 4.2) reveals that performance of this role has increased during the last decade, especially by the adjudications of the Supreme Court.

The key actors in media policy formulation and implementation concerning the freedom of speech in addition to the judiciary are: the Parliament; the Ministry of Culture; Estonian National Broadcasting (public service broadcasting, PSB) and its Council; media organisations and organisations that represent media or journalists (Journalists’ Union; Association of the Estonian Newspapers; Union of Estonian Broadcasting); two self-regulatory bodies; to some extent also the Inspection of Data Protection, media educators in formal and higher education system (the Association of Estonian Media Educators’) and media researchers (Baltic Association of Media Studies).

² Interview with Märt Rask, the chair of the Supreme Court, by Urmas Loit (in written format), Tartu, 5 October 2011.

Interest groups enjoy diverse impact, which often emerges when publicly debating media-political issues. Recent acrimonious discussions were held about the legislative initiative about journalistic source protection and about increasing the potential material liabilities sustained by media organisations. The Minister of Culture, Rein Lang, admitted that this debate revealed the press as the most influential and organised interest group:

‘The stakeholders became overt when discussing whether there would be responsibilities carried into effect or not. On one hand, the state evincing that the individuals’ rights are not sufficiently protected and on the other hand *in corpore* the publishers; and not the broadcasters, by the way. /---/ But the publishers suddenly detected a problem within the potentiality of conjectural liabilities. Thus the publishers’ lobby or common interests can be observed – those of the two larger ones. /---/ To some reason they call the lobby a “newspaper association”.’³

The above-mentioned list of key actors primarily defines the institutional actors. Still the implementation of media policy, especially in a small country depends also on the perceptions of the media/political aims of key individual actors.

The critical question is to what extent and how these different actors influence the media policy and the effects of these influences on the development of a media policy that supports media freedom and independence – from the perspective of audience and society. The analysis of qualitative interviews with persons representing the key institutions reflects that the knowledge (and scholarship) on media-political discourse (vocabulary, knowledge of different mechanisms that influence media policy, ability to analyse the public discussions on media etc.) varies from person to person. Individual actors not only represent different interests but have also delved into the same issues to a different extent. At the same time individual actors, while speaking or criticising media policy use the phrase ‘state of Estonia’ or ‘Estonia’ and only occasionally refer to certain institutions, organisations, groups or individuals. Nor do the actors speak about the need for negotiations between interested parties concerning the media policy.

The chair of the board for the Estonian National Broadcasting (the public service broadcaster, ERR) Margus Allikmaa said that Estonia lacks a holistic approach in regard to media policy, and left open the question if there should have been any.

‘I think the state of Estonia currently lacks an integral vision. Today there is no institution – be it the ministry or any other body – to tell us what the policy is. In fact – this is the situation. Another matter would be, if we need this after all. In one particular field we might need somewhat clearer – not even regulation, but implementation of the existing regulations. This would be some kind of independent media regulating agency, like in the most of European countries. This clearly is absent from Estonia now.’⁴

³ Interview with Rein Lang, the Minister of Culture, by Urmas Loit, Tallinn, 4 October 2011.

⁴ Interview with Margus Allikmaa, the head of the management board of the Estonian National Broadcasting, by Urmas Loit, Tallinn, 27 September 2011.

For politicians the issues related to media policy appear to be distant and inessential – only one out of eight members of the parliament (*Riigikogu*) who were asked to answer the questionnaire for this study actually responded.⁵ The rest of the interviewees (politicians and experts) emphasised that the public service broadcasting served for the major (and often even the only) attribute for the state media policy and that Estonia follows the liberal values.

The only MP (Igor Gräzin) who consented to be interviewed for the current study claimed that nowadays access to public communication is open to everyone:

‘Having regard to the fact that – let’s say – 80% of information and opinion flows via social media it does not absolutely matter whether a person can express oneself in [mainstream dailies] *Postimees* or *Eesti Päevaleht* or not.’⁶

This somewhat exaggerated claim (the volume – 80% – is hardly comprehensible) does however reflect ‘access to information’ as a media-political goal valued by him. He also emphasises ‘quality control’ as another media-political goal which could be achieved only through performance of the public service broadcasting:

‘The Estonian media policy lies only in the Estonian National Broadcasting and that’s it. Regarding anything else – there is total freedom. And the state does not intervene in it whatsoever. /---/ The problem with the Estonian media is that there is no internal censorship. In other words, when one newspaper tells lies, other papers do not react to it. /---/ Thus the only option for the state is to introduce, but even this only for a bit, the Estonian National Broadcasting keeping the professional standards higher, which would serve for the role model. And working with the public service broadcaster would be prestigious.’⁷

Igor Gräzin outlines his perception about the media’s self-regulation, what he labels as ‘internal censorship’. This is an important and interesting point. First, implicitly one can interpret that for him the major actor of media policy would be the state. The major aim of media policy is to safeguard journalistic standards. He does not hint at the accountability system, but rather to the ideal of market competition that would also guarantee the product quality. He suggests that the intrinsic quality control mechanism of the industry does not work. For media researchers it has been known for long that in Estonia the news organisations (especially the leading ones) try to avoid mutual criticism.

The values of self-regulatory bodies are different as there are two different organisations. ASN has defined itself as a think-tank providing media criticism, as well as a self-regulatory body for the membership of the journalists’ union. As the ASN involves several corporate members representing the public (the union of

⁵ One of the MPs considered the scope of the study too vast, others simply did not reply to the researchers’ proposal. Among the chosen MPs, four were members of the Estonian National Broadcasting Council (appointed by the Parliament) and the other four were members of the Cultural Commission: the head, the deputy head, and two former Ministers of Culture.

⁶ Interview with Igor Gräzin, the MP and the member of the National Broadcasting Council, by Urmas Loit, Tallinn, 24 September 2011.

⁷ Ibid.

consumer protection, the lawyers' association and the association of media educators), it advocates public interest and proficiency towards good conduct issues.

The ENA press council has been launched by the newspaper publishers' organisation and manned predominantly by chief editors, whereas the lay members constitute a minority and have been chosen and invited by the ENA. In the ASN, all members have been delegated by member organisations. Thus, the ENA press council clearly promotes employers' positions.

Divergence of values manifests when comparing the adjudications in the same case by both bodies. When the ASN sticks to certain values, the publications should comply with (accuracy, balance – especially in case of covering a conflict –, presumption of innocence and human dignity), the ENA press council primarily underlines the status of the protagonist (e.g. politicians' obligation to accept criticism) and the media's right to cover topics of public interest (Harro-Loit, 2008; Kübar, 2006). The difference lies in priorities: the ASN predominantly defends the public right to receive sound information, while the ENA press council predominantly urges press freedom.

The technological evolution (Internet resources) has set forth two new major value conflicts. Firstly, would the individual's right to decide upon the information publicised about him also mean that he has the right to demand to erase certain publicly accessible information about him on the Internet? Secondly, would the initial circulator of incorrect information be obliged to correct the information in case it is widespread over the Internet? Both issues have already been covered by court precedents and the issue has been also interpreted by the Data Protection Inspectorate. From the aspects of value clarification, the development of the Internet has emerged dilemmas related to personal information distribution and its 'recycling' based on publicly accessible environments, and discussions about ensuring the individual's informational self-determination versus the need for society's transparency.

3. The structure of the media market

Estonia does not regulate the press market with specifically targeted legislation. General laws concerning ownership, competition, advertising, taxation etc. apply to the print media. The media has no privileges concerning VAT or other taxes. No special regulation exists for launching new periodical publications on-line or off-line. Foreign ownership is not restricted; neither is cross-media ownership. The Estonian media business enjoys the lightest possible regulation or no regulation at all. The media business is not seen as something different from any other business. The Estonian media market has been open to foreign investors since 1990s.

Public Broadcasting (PSB) (two TV channels and 4 radio channels) is financed from the state budget; no licence fee has been applied for the general public. Since 2002 the share of the allocation for the PSB in the state budget has been steadily decreasing (Jõesaar, 2011: 87). Still as the PSB's viewing time has remained roughly at the same level during the last six years, one can assume that indeed the quality programming has helped the PSB to hold its position (Jõesaar, 2011: 50). There is almost no public debate about PSB financing today, just the question about the total of allocations each year – even this has diminished under the economic recession.

The state also allocates subsidies to cultural periodicals (cultural weeklies and few magazines). In addition some ministries occasionally purchase certain programmes or additional pages in commercial media channels. According to the good conduct rules the reference to the buyer should be mentioned but this rule is often not followed.

The Estonian media system is small according to the population, geographical size and GDP. In addition, it does not have a big neighbour where the same language is spoken. By contrast, the Estonian 'minority' – the Russian-speaking population – has converged towards the media market of Russia.

There is no specific ownership regulation in Estonia and this issue has not been discussed in public. The only regulation on media concentration appears in the Media Services Act which declares that a licence may not be granted in case the applicant is 'by means of the governing effect over management connected to the undertaking that has been granted the activity licence for provision of television and radio service and this may substantially damage the competition in the media services market, particularly through creation or reinforcement of the dominant position in the market'.⁸ This provision is not clear and appears to be declarative and thus not really intended to be employed. The rule in principle has stood in the Broadcasting Act since 1994. Moreover, the pattern of its application has remained the same despite changing the legislative act in whole – the anti-concentration provision can be enforced when applying for new licences, and does not provide any grounds for cancellation of valid licences. As concentration has been somewhat inevitable in a small market like Estonia, this situation has not provided much ground for contesting the conjuncture.

Currently, two large media corporations dominate the Estonian media market – Eesti Meedia (Estonian Media, owned by the Norwegian Schibsted ASA) and Ekspress Grupp (a quoted company with an Estonian core investor). The influence of Schibsted started to grow quickly in the Estonian market since 1998 when Schibsted ASA became a 34% owner in Postimees.

⁸ Media Services Act, Art 32, clause 3.

The broadcasting sector consists of the Public Service Broadcaster (PSB – the Estonian National Broadcasting, with two nationwide TV channels and four nationwide radio channels), two national commercial TV channels and a few local ones (in cable) and nearly 30 commercial radio channels of various types from small regional ones to national networks.

The period of 2001-2007 in the broadcasting sector is characterised by rapid growth of the advertising market which along with new frequency resources enabled to open up new TV channels. Under the shifted circumstances the state reduced the hitherto protectionism on the television market and issued a licence for digital broadcasting to *Kalev Sport* which is now bankrupt (Jõesaar, 2010). The final switch-over to digital took place as of 1 July 2010.

The large private television channels have been profitable since the public broadcaster was deprived (ultimately in 2002) of the right to sell and air advertising. Already in 1998 three commercial television stations and PSB reached a private agreement according to which public television was not to sell airtime, whereas the private channels agreed to pay monthly compensation for that right to the PSB. Consequently, the formation of advertising prices passed over to private broadcasters. So far the PSB as the market leader dictated the prices, which according to the private broadcasters was considered a distortion of the market as the PSB also received allocations from the state budget. This private agreement worked for 1.5 year, until TV 1 failed to pay its share on a regular basis. Meanwhile production costs for PSB increased. At the end of the 1990s, PSB television ended up in a severe management and financial crisis. The concept of an advertisement-free public service was then introduced by an amendment to the Broadcasting Act in 2001 (entered into force as of 1 July 2002). This has probably been the one and only case of wider consensus on a media political issue. The state, the public and private broadcasters agreed upon the key media-political elements to launch the plan.

The new regulation also introduced a model under which the number of commercial television broadcasting licences was limited to two and an annual fee for the licence, initially for 10 million EEK (0.6 million EUR). This mechanism however guaranteed PSB programming to become independent from advertising pressures. The TV advertising market was then shaped by the two ‘chosen’ foreign owned TV broadcasters, while their output obligations were mainly limited to those prescribed by the Television Without Frontiers Directive (Jõesaar, 2011: 93).

Yet, the fees for licences were later increased for the commercial channels, reportedly almost to the endurance limits of the commercial broadcasters, while the PSB was not provided any long-term stability in financing. Thus the state left the market players by themselves to solve the implementation problems, whilst in general the largest advertising market cataclysm (which with price dumping of advertising sales in 1999-2000 also abnormally affected the radio market) was resolved.

The limitation of the market was to stabilise the advertising market and provide the licensees with financial resources to pay the fee. On the other hand the fee from the commercial broadcasters did not fully cover the allocations the state was committing for the PSB.

Due to the digital ‘enlargement’, and the market limitation and the fee for licences were correspondingly revoked, as outdated features impeding the

broadcasters' technological progress. The newspaper publishers (especially Hans H. Luik of the Ekspress Group) accused the state in making a 3.2 million Euro donation to each of the commercial televisions while no real digital features have been implemented during the change to digital transmission. On the other hand Urmas Oru, the Director General of Kanal 2 declared that no digital commitments had been made for revoking the fee. Also, the coequal fees would have prevented smaller and niche channels from emerging.

To the present, the television market has been divided predominantly by the two larger players Norway's Schibsted and Sweden's Modern Times Group which run the only private free-to-air channels. All the other private digital channels (including the channels by the two big companies: Kanal 11, Kanal 12 and TV 6) are conditionally accessed, except for Tallinna TV. The latter is run by the municipal powers of the capital city Tallinn and hosts a public discussion about whether a nationwide television channel would be a purposeful investment for the municipality.

For the Russian language audience, the *Pervyi Baltiiski Kanal* also competes for advertising money. While this channel has the programming predominantly sourced from Russia, it possesses a UK broadcasting licence and is run from Latvia. Thus no obligations under the Estonian jurisdiction apply to them whatsoever.

In 2009, all market players experienced cutbacks although the private broadcasters were allowed to revoke the fees for their licences. The newspaper publishers repeatedly referred to this act as a 'gift' or 'subsidy'. The Ministry of Culture reasoned this allowance with the need to motivate the broadcasters going digital and increasing the total number of television channels. In total, the earnings of the two largest TV-channels remained slightly above the level of 2005, while the allocations for the PSB were cut twice in 2009 which fixed the subsidy 8% below the level of 2008 (Jõesaar, 2010).

As the cost of broadcasting services is not proportional to the population size, a small country with a relatively lower GDP level - like Estonia - would need to make a bigger effort to fund public service broadcasting compared to big nations. The under-financing of the public broadcasting remains a current issue. Nevertheless, the PSB is keeping its leading role as the most reliable news source. At the same time people daily spent more time - 1h45m watching commercial television (Jõesaar, 2011:89).

In 2012, the national cultural weekly *Sirp* will get more allocations from the state budget. In 2011, the subsidy to the publisher (a state founded foundation) was 919,707 Euros. In 2012 it will grow according to the draft state budget almost by 50% - amounting to 1,365,307 Euros.⁹ These numbers are brought as an illustration about the budget dimensions of a state-subsidised weekly. The Foundation also publishes the cultural outlets *Akadeemia*, *Diplomaatia*, *Keel ja Kirjandus*, *Kunst.ee*, *Looming*, *Loomingu Raamatukogu*, *Muusika*, *Sirp*, *Teater.Muusika.Kino*, *Täheke*, *Vikerkaar* and *Õpetajate Leht*. The cultural outlets form a mainstay of Estonian national culture under the protection of the Constitution. Thus these outlets do not need to struggle for market share to survive.

The press market is of an oligopolistic character - two companies publish the two competing national dailies (*Postimees* by Eesti Meedia (Schibsted) and *Eesti*

⁹ Source: 'Riik hakkab rahastama Sirpi täies mahus riigieelarvest' [The state shall in full finance *Sirp* from the state budget], DELFI.ee, 28 September 2011.

Päevaleht by Ekspress Grupp). In addition they have a fifty-fifty share of the only national tabloid and the largest magazines' publishing company (with 23 magazines). Ekspress Grupp also owns the major Internet news portal *Delfi*. Eesti Meedia also publishes five largest regional dailies while Ekspress Grupp publishes two major national weeklies. There is also a Bonnier-owned business daily *Äripäev* that does not compete with the other dailies for the general public, but is more targeted at the business sector.

The biggest circulations in 2011 (October) were: the national daily *Postimees* – 58,500; the daily tabloid *Õhtuleht* 52,600; and the daily *Eesti Päevaleht* 27,200.

The total advertising expenditure of the Estonian media in 2010 was, compared to 2009 still waning, (TNS EMOR, 2011); indeed a breakdown by sectors (Table 1) shows that newspapers have gradually lost their positions in the advertising market to television and the Internet. The latter two, along with outdoor advertising, experienced smaller drops in advertising revenue in 2010, the Internet 7% and television 1.4%, whereas print media suffered dramatic drops, magazines 14% and newspapers 20%. The second half of 2010 did provide some growth for the advertising market.

Table 1. Advertising expenditure in Estonia (million Euros) and the sectorial breakdown (percent).

	2000	2005	2009	2010
Newspapers	45.6%	44%	33%	29%
Magazines	13.6%	12%	7%	6%
Television	23%	27%	29%	32%
Radio	11.3%	8%	10%	10%
Outdoor Advertising	4.6%	6%	8%	9%
Internet	1.9%	3%	13%	14%
TOTAL (million Euro)	43.1	73.2	70.9	66

Source: TNS EMOR.

The Estonian regional media consists of 11 regional newspapers (most of which belong to the Schibsted chain) and some local radios (licensed as 'regional' under the new Media Services Act). Besides these, there are several municipal newspaper-like outlets which are issued and financed by the local authorities. One Southern Estonian newspaper (in a local dialect – *Uma Leht*) is financed by Cultural Capital.

Concerning the municipal gazettes, there is an evident conflict of both interests and functions. While, the municipal powers need their gazettes to disseminate official information and indeed the administrations often handle the outlets as administrative units, the editors and the municipal council members tend to prefer a journalistic approach. The ENA considers these gazettes not to be newspapers. The ASN has issued a couple of position papers regarding the municipal gazettes, recommending to maintain the journalistic practices if the gazette is being

issued under journalistic convention. The publishers (municipalities) were recommended to serve public interests and protect editorial independence. The problem lies in the local population's need to get truthful and unbiased information which is often unfulfilled on the municipal level. At the same time it is obvious that these local outlets cannot perform the function of a watchdog.

Altogether, the issue of media economy like ownership and media market regulation has never been a topic for public debate in Estonia. The market mechanisms do not favour politically neutral distribution of information at local (municipal) level and the media-political mechanisms are absent. The PSB does not directly compete with commercial stations, thus the advertising pressure onto programming is absent. Removal of advertising from the PSB programming was a political agreement between the stakeholders which has persisted.

Internet neutrality has been set as a core principle by the Electronic Communications Act. No questioning of this keystone has ever emerged, presumably for several reasons: free Internet access is considered as a human right, the Internet service providers themselves do not produce content, and the overall market is very small.

The biggest threat to freedom of information could be that in business terms the oligopoly fails in the dailies market and a monopoly emerges. What needs to be done afterwards, nobody has publicly debated.

4. Composition and diversification of media content

Content-related regulation and its implementation are central components of media policy-making and linked to the consequences for media freedom and independence. The norms that regulate the balance between journalistic freedom with other rights determine whether the media operates in the service of public interest or rather in the service of economic interests and instrumental considerations. In media policy the diversity and variety in the media can be sometimes seen as a desirable objective that helps to promote democracy. It is important to note that media diversity refers to the heterogeneity on the level of contents, publications/programmes, ownership and information sources. In the present sub-chapter we consider content diversity as one of the key factors concerning the media freedom and the need to balance this freedom in public interest. Donk and Trappel (2011: 36-40) argue for several indicators that could measure the level of diversity potential in a certain media system: media ownership and concentration at the national level; media ownership and concentration at the regional (local) level; diversity of formats; minority/alternative media; affordable public and private news media; a content monitoring instrument in the form of a code of ethics at the national level; the level of self-regulation (performance); participation; rules and practices on internal pluralism.

Direct content requirements, based on law, only concern the public broadcaster. Various aspects of media content – how to deal with personal data, issues of protection of privacy, defamation, access to information – are covered by general laws and are therefore visible primarily via the analysis of Estonian court cases concerning the media organisations and journalists.

As regards the role of law courts Peeter Sookruus, the media expert employed by the Ministry of Culture for ten years, said:

‘There is few practice in this field as the people do not take the issues to court. They acquiesce despite being defamed. And there aren’t much success stories supporting going to the law court. /---/ Even if a person – for instance a politician – just menaces to sue the media, he faces severe sallies. /---/ An individual needs to possess vigorous spirit and large purse to launch a lawsuit against a media corporation. The powers are uneven here – anyway, this provides a cause for rumination.’¹⁰

Later in this chapter we analytically highlight the values supported by the few court adjudications to guide the contents. Hereby, it is substantial to heed that the mutual role of the general public and the law courts to affect the media’s contents is small (except for the consumer behaviour). People’s indulgence as a tendency has been legitimised.

Rein Lang, the Minister of Culture pointedly summarised the political tradition as regards the regulation of media contents:

‘Good question – if we needed a government office for monitoring. Alongside with the Estonian Security Police, of course! The delicacy here is that whenever the state launches any analytical study – several questions spring up: who is doing it, what’s the aim, what’s the goal. Would it lead to some kind of

¹⁰ Interview with Peeter Sookruus, the head of the department of media and copyright of the Ministry of Culture, by Urmas Loit, Tallinn, 4 October 2011.

regulation or would it just be illuminating? A delicate issue anyway. I think that the government should not go in for this much.’¹¹

The ironic remark by the Minister about the security police implies the Estonian political tradition to rather perceive monitoring as an inspection than analysis. The politically induced fear that the monitoring might end up with a new regulation tends to fully kill the potential question if the probable regulation could benefit society. The latter is expressed by the Minister’s hint to the ‘delicacy’ of the monitoring issue. It is hard to detect whether the hesitation derives from the historic past or the liberal media policy having been implemented for the last two decades.

The Estonian policy discourse predominantly relies on self-regulation and tends to avoid massive content prescriptions. *Inter alia*, this applies to advertising. The officer of the Ministry of Culture explained the case concerning implementing the audiovisual media advertising rules under the Audiovisual Media Services Directive (AVMSD). As to the political discourse, it is essential to notice the officer underlining the negotiating and cooperation aspects.

‘A good example of self-regulation and co-regulation – recently the Association of Broadcasters approved a code of conduct about food advertising targeted to the minors, especially as regards food containing a redundant portion of sugar and fats. The core of the regulation derives from the AVMSD, but it has been left with the member states to choose the ways of applying it. We proposed the association to work out the code. Also the law provides the industry associations precedence to adopt self-regulatory rules within a year as of the law entering into force. /---/ We had several fruitful meetings with the industry representatives and basically within nine months the service providers did it by themselves.’¹²

Any direct or indirect activity of the government regarding the media can and will be used to underline its unwanted interfering character, as seen from the statement of the current head of the management of the PSB and the former Minister of Culture:

‘When the state allocates the resource – be it financing, frequencies or frequency bands, by that also the media content can actively be affected. As long as it is being done by the Ministry of Culture, the state imminently and politically intervenes in the material media policy.’¹³

¹¹ Interview with Rein Lang, the Minister of Culture, by Urmas Loit, Tallinn, 4 October 2011.

¹² Interview with Peeter Sookruus, the head of the department of media and copyright of the Ministry of Culture, by Urmas Loit, Tallinn, 4 October 2011.

¹³ Interview with Margus Allikmaa, the head of the management board of the Estonian National Broadcasting, by Urmas Loit, Tallinn, 27 September 2011.

4.1 Promotion of diversity of views

Content monitoring instruments

The content has been regulated only in broadcasting as the radio and TV stations should get a licence in order to operate. No other media sector content is being monitored. Also the monitoring of broadcasting (audiovisual media services under the new law, including radio) has been random *in re* the content remits, except for advertising quotas followed by the large free-to-air televisions. The advertising quota monitoring has been subcontracted monthly from TNS EMOR. In the latter cases the detected over-quota has led to fines several times.

However, not only the lack of financial and human resources, but also the absence of media-political volition by the Government have caused that, for almost 20 years, there has been no regular monitoring of the output of radio programmes (on any level, but especially of those located out of Tallinn) or smaller television programmes (e.g. in cable). This has led to negligence towards content obligations or, at least, absence of any supervising data about broadcasters' compliance with content prescriptions on all levels of broadcasting.

To set grounds for discussing the monitoring issue, the Estonian research team monitored a regional radio programme and its compliance with the content obligations set by the law, by the licence and by the broadcaster's proffer when competing for the licence.¹⁴ The Russian language radio station – *Russkoe Radio* – applied for a licence to broadcast locally nearby the second biggest city of Estonia, Tartu. However, the station held a nationwide licence, covering the main Russian-populated areas in the northern Estonia (including the North-Eastern urban territories). The programme output was correspondingly targeted to wider audiences and the initial intention of the broadcaster was not to provide local programming in Tartu either, but just to widen the coverage area.¹⁵ The three-days-long monitoring revealed that *Russkoe Radio* was re-broadcasting its parent programme released at the Tallinn studios, and did not even have any slots for local items. There were no local news or issues discussed during the programme, although the broadcaster had claimed to the Ministry of Culture that local items are present in the programme.¹⁶ Actually they were some relevant pieces: Tartu occurred twice in the news bulletins possessing nationwide news value; besides daily repeat broadcasts¹⁷ there was a mini-rubrique about Tartu – like a tourist guide with no relevance to the local audience. In addition, it was established that during the weekend the radio did not meet the daily quota for carrying news.

Unexpectedly, the Ministry subcontracted a two-week monitoring about *Russkoe Radio* in Tartu immediately after the first monitoring, revealing that the local content had even become more reduced – there were news bulletins for Tallinn and

¹⁴ The monitoring was carried through on 12-14 May 2011; the licence was issued in January 2010.

¹⁵ Initially, *Russkoe Radio* applied for merging the frequency to its national licence. As the tender conditions principally preferred a local broadcaster in case it made a bid for the licence, *Russkoe Radio* was officially provided an opportunity to reformat its application into a local one. Although the then Minister of Culture justified this with the principle of allowing the applicant to 'submit supplementary data to its original application' (see the Ministry's outgoing letter No 9.1/671 of 6 May 2010), this was a complete inconstancy with the administrative practices for licensing since 1999.

¹⁶ The local community radio enthusiasts sent a note to the Ministry about *Russkoe Radio*'s non-compliance with the licence provisions. The Minister affirmed the existence of the local content, based on the broadcasters' reply to a written inquiry (ibid). No actual independent monitoring was done.

¹⁷ Whereby, one of the two pieces was aired during the night.

north-east Estonia on every morning show but news items about Tartu were scarce even in the hourly news bulletins.¹⁸ Although, the station identifies itself with national coverage, Tartu only appeared as one of many news items. This contradicts the sense of a local (regional) licence and tends to prove that the broadcaster never intended to produce any local programming. Despite the Ministry ordering the programme to be adjusted to comply with the licence conditions by October 2011, there is to date no evidence (monitoring) that a suitable adjustment has occurred. It is noteworthy about media policy implementation that the scrutiny about the obedience to licence conditions appeared only after a year of validation of the licence, while even then the broadcaster rather blamed the supervising authority in acting subjectively in the favour of competitors.¹⁹

The comment by the current Minister of Culture Rein Lang allows one to conclude that the Government would rather abolish licensing and the restrictive programming conditions to it than allocate more resources for surveillance. To the clarifying question ‘what about the programming obligations set by the law?’, the Minister replied that this regulation should also be minimised.

Rein Lang, the Minister of Culture: ‘This resource [frequencies], for instance, in cable television is absolutely limitless, as well as in case of digital terrestrial television. Thus, we might give up licensing and not to imagine that by inviting the broadcasters to our commission we somehow could rule out the informational meddling by some unfriendly countries. In no way! /---/

In case there is no licensing, there would be no need for surveillance. The monitoring in this case would be performed within the reception by the audience. As to radio, this situation is a bit different as the number of applicants exceeds the number of frequency options and resource needs to be fairly distributed.

But we cannot allow – by preferring some “free and independent” producers – that the licences become objects for bargaining. But one way or another the Ministers of culture have historically butted in: preferring either one or another corporation, or the third – to as if balance the competition. This is insane! But how to fix the system – today I cannot even say.²⁰

4.2 Values protected by the Estonian courts: the analysis of Estonian jurisprudence

It is therefore important to distinguish the circumstances the freedom of expression is given priority over privacy-related values or fair trial values. Identity related issues (blasphemy, hatred speech) have not been a media-related court case in Estonia.

Consequently, in the following analysis of Estonian court cases concerning the media, we will analyse what have been the major value conflicts reflected in court decisions and how the Estonian National Court has balanced these value conflicts. Basically the Estonian National Court has been interpreting the following values: media freedom; freedom of expression; privacy-related rights (human dignity as a

¹⁸ 20 occasions during two weeks, none of them targeted locally.

¹⁹ See Mets, R. ‘Ministeerium nõuab raadiolt Tartu programmi’ [The Ministry enforces the radio to produce local Tartu programming], *Tartu Postimees*, 17 August 2011.

²⁰ Interview with Rein Lang, the Minister of Culture, by Urmas Loit, 4 October 2011.

universal value); public interest, the defamatory nature of factual statements and value judgements.

It has been argued that one threat to the freedom of speech that is implied by the courts could be ‘damages’. The court practice defining moral damages in Estonia has created a convention of token damages remuneration.

First, the law suits brought against the media organisations in 2001-2011 are not numerous and number about 30 cases.

In the context of the present report, the most important are those cases that have reached the Supreme Court. There are six cases concerning the reputation of an individual and more precisely the disclosure of incorrect information and defamatory facts. Discussions about non-patrimonial (moral) damage supplement these cases: *Sami Markus Lotila v. Eesti Ekspress* (2001); *Voldemar Veber v. Eesti Ekspress* (2001); *Roza Romanko v. Põhjarannik* (2004; 3-2-1-11-04); *S.S. v. L.O.* (2006, related to a local cable TV at Maardu, 3-2-1-161-05); *Villu Reiljan v. Postimees* (2007; 3-2-1-53-07); *Georg Gross v. Eesti Ekspress* to publish a correction (2008; 3-2-1-145-07); *Vjatšeslav Leedo v. Delfi* (2009; 3-2-1-43-09). The latter among the listed cases is the only one related to online media.

Some cases predominantly deal with ‘truth’ and accuracy. In civil cases (Robert Lepikson v. *Eesti Ekspress* and *SL Õhtuleht* to refute incorrect data; 3-2-1-17-05) the Supreme Court established that the publication by the defendants grounded on an article in *Eesti Päevaleht* did not substantiate the truthfulness of the contested data. For enforcing a refute or a correction (under Article 1047, section 4 of the Law of Obligations Act) only the untruthfulness of the published data needs to be established.

In civil case 3-2-1-73-07 (*N.D. v. G.D.* to remunerate moral damage) the Supreme Court established that for imposing the burden of refuting incorrect data the data need not to be defaming.

In civil case 3-2-1-83-10 (*Jüri Gontšarov v. Jüri Vilms Foundation*²¹ to remunerate moral damages 50,000 EEK (3195 EUR)) the Supreme Court ruled that any data should be verified prior to publication in consistency with potential damage. In principle the Supreme Court established that the misinterpretation of information about an alleged crime provided in the public interest to the media outlet by the police and the prosecutor and its publication may bring about liability.

One case concerned unallowed filming by a news team and direct interference of privacy (*Villu Tammer v. TV3*, 2007; 3-2-1-152-09).

In civil case *Rein Kallaste v. Eesti Päevaleht* (3-2-1-83-10) the aim was to refute incorrect data. The National Court ruled that the plaintiff’s claim to oblige the defendant to submit a request to the Internet search systems Google, AltaVista and Yahoo to terminate the ongoing publication of defamatory incorrect data can be regarded as met according to Article 1055 section 1 of the Law of Obligations Act by the defendant if the defendant has submitted a signed (either in handwriting or digitally) notification to these systems to remove the incorrect data. The case also is related to wrongful usage of a person’s name and of an erroneously incriminating list of offences. It also includes dispute about the impact of geometric dissemination of information in the Internet and the related complicity of refuting wrongful information.

²¹ A publisher directly related to the Centrist Party (*Keskerakond*).

The verdict under which the largest moral compensation was ordered also concerns violation of private life. A newspaper published the name of a rape victim and the newspaper was ordered to pay damages of 200,000 EEK (23,782 EUR) in 2002.

In one case, proceedings have been instituted against an information source which dispersed fraud about another company in a newspaper article (Merck Sharp & Dohme Inc. (Estonian branch) v. Pfiser H.C.P. Corporation (Estonian branch) concerning the correction of published data (3-2-1-95-05).

As to media policy, an interesting case was the Supreme Court's injunction about an erased article about Sirje Kingsepp in the Internet archive of *Eesti Päevaleht* (published in 2004 – 'A Feminist, not a Communist') – access to which was banned by the Data Protection Inspectorate. The verdict by the Circuit Court and its approval by the Supreme Court enabled re-granting public access to the article.

In summary, 16 cases provide argumentation that provides interpretations concerning the values like press freedom, freedom of speech, human dignity, truth, privacy and status of persons in Estonia. Altogether, 12 Supreme Court cases have been directly related to the issues listed in Article 10, sec 2 (of the ECHR) and media policy implementation.

In addition, altogether there have been 27 court rulings (in the first and second degree courts) which have been analysed in brief. According to the publicly available data, it is possible to say that up to 30 cases concerning media organisations and journalists have been solved since the beginning of the millennium. It is important to note that quite often the Supreme Court has reached very different interpretations of the law concerning the media-related cases in comparison to what has been decided by the first and second degree courts. The tendency is that the first and second degree courts usually protect press freedom without balancing it carefully against the rights of individuals.

4.2.1 Media freedom and *truth* as protected values

'Obligating the article publisher to publish a correction would be an infringement of press freedom deriving from the joint action of Articles 44 and 45 of the Constitution which needs to be reasoned and proportional. The Supreme Court has earlier detected that the principle of freedom of speech, including the journalistic freedom of speech, established in the Article 45 of the Constitution and Article 10, Section 1 of the European Convention of Human Rights serves as the essential safeguard for democratic social order and consequently the material social value.' (case 3-1-1-80-97, *Laanaru v. Tammer*, 1997).

Hence, the Estonian Supreme Court stated already in the 1990s that press freedom was among the most valuable social values.

When we look at the appeals by the media outlets as defendants, it has been repeatedly claimed that the obligation to publish corrections imposed by the Law of Obligations Act appears to be an infringement of press freedom and needs to be proportional.

Partly the jurisprudence of the Estonian Supreme Court since the 2000s has moved towards the 'fourth' ('variable geometry') model. Fenwick and Phillipson stress that the fourth model '/---/... upholds media freedom just as strongly as the

others [freedoms] when it is genuinely directed at the public interest, in terms of both truth-promotion and democracy. /---/ Acceptance of the “fourth” model tends to allow for the imposition of specific regulation of the media with the aim of perfecting or enhancing speech from audience perspective. Such regulation may include duties upon the media that might be termed “anti-privileges”, that is, particular burdens that would not be acceptable if imposed upon individuals. Obvious examples are “right to reply” provisions, in which newspapers are obliged to carry apologies and corrections if they are found to have published defamatory and/or privacy-invading material...’ (Fenwick and Phillipson, 2006: 27).

On the one hand Article 1047 of the Law of Obligations Act obligates the media (as any other information discloser) to publish corrections which in the case *Gross v. Eesti Ekspress* (2008) the Supreme Court underlined as follows:

‘In general, the courts are right in their conclusion that the public has legitimate interest to know about the methods applied by the police for the regulation of traffic to ensure a safer traffic environment. However, the affirmation of the existence of public interest in the use of the plaintiff’s image in particular in the media coverage of a police operation has neither been demonstrated by the defendant nor substantiated by the courts. /---/ The panel is of the opinion that public interest could have been affirmed in particular in such a case if the plaintiff had committed serious offence and reporting on that offence would have been in the public interest in order to contribute to the detection and prevention of such offences in the future. /---/ Moreover, the panel points out that the use of an image of an individual without his or her permission is generally also lawful in cases where the individual knowingly exposes him/herself in a situation where the making of his or her image publicly visible can be reasonably foreseen, e.g. in case of participating in various social events that are of particular interest to the so-called yellow press. The panel also points out that the usage of an individual’s image can be permissible also in cases where the image is distorted by means of technical tools to the extent that the person cannot be identified. According to the panel, in such a case it must not be possible to identify the person from the context either. The ECHR has drawn attention to the option of distortion of a person’s image to the unrecognisable for example in the case *Peck vs. the United Kingdom*.’

The factual claim and the value judgement have been a recurring topic for the National Court for argumentation. Hereby the influence of the European Court is less noticeable. First, the debate concerning the fact and value/comment goes back to the early 1990s, before the European Court case law became relevant to the Estonian jurisprudence. The following quotation gives an overview of the references concerning the development of argumentation concerning the defining fact and value-statements throughout the change of Estonian laws.

The special panel of the Supreme Court in civil case 3-2-1-99-97 clarified the term ‘data’ under the General Part of the Civil Code Act, Article 23, which means ‘factual claim’. A factual claim can be verified and its trueness or wrongfulness can be substantiated. The value judgement about a person can obtain a negative meaning in a particular cultural context. The value judgement can be motivated but its truthfulness cannot be substantiated. Consequently, in case of defamation by a value

judgement, no refute can be claimed as this information does not contain data. The similar ruling was produced under the Law of Obligations Act in the case 3-2-1-11-04 which added that claim for a refute needs to be explicit.

The debate upon the fact and evaluations culminated when the Supreme Court decided upon the case of Villu Reiljan, the former Minister of Environment. Then one of the judges (Jaak Luik) expressed a dissenting opinion. He claimed that the circuit court and the Civil Panel of the Supreme Court had clearly discarded the argument that Villu Reiljan did not hold the office of a Minister at the time the alleged offences were committed. Within this research it is important to notice that the judge brings up the question if a politician can be criticised without any restraint. Also, in this case, the ruling shows that as the public figure needs to evince higher tolerance towards criticism – which is the rhetoric of the ECtHR – their public status would also support not being awarded any fiscal damages. According to the ruling, the honour and good name of a public person can be repaired by refuting or a correction.

Thus, unlike several cases of the Court in Strasbourg (e.g. *Pedersen and Baagsgaard v. Denmark*, 2004) the Estonian Supreme Court does not evaluate the degree of carefulness the media has paid to the material, but continuously rather focuses on legally defining the ‘value judgement’ and the ‘factual claim’. The Supreme Court does not employ the ECtHR’s argumentation about the political debate and public interest. This reveals that the jurisprudence regarding defamation by disclosure of incorrect data appears to be fragmentary.

4.2.2 The issue of accountability of the professional media and other sources and the public interest

In recent years the media’s growing interactivity has provided grounds for debate and to construe the question related to the accountability of the professional media and various types of sources. On the one hand these cases have again been linked to the dissemination of untruthful information, but on the other hand also with human dignity as a value and the individual’s right of self-determination (*Villu Tammert v. TV3*). The most thorough addressing of the responsibility issue was invoked in the case *V.Leedo v. Delfi* in which the question was whether the media organisation providing the space would take responsibility for the insulting visitors’ comments or would the commenters be solely accountable for what they write. In this case it was also debated if the press freedom would be protected under the clause of public interest even if the media organisations’ business interests (which contain publishing visitors’ comments and achieving a high rate of clicks based on the number of comments) are viable.

It is important that in some cases the Supreme Court has overruled the basic values’ argumentation by the first and second-degree courts. In the case of Villu Tammert the TV-news team covered a police operation. The plaintiff was stopped and made an admonition without any legal infliction. The plaintiff clearly asked not to be filmed for the TV news. However, the newscast used that footage. The county court ruled that as the news item only lasted for some 20 seconds, it could not damage the person to any extent which could justify banning the usage in the news cast. Also the circuit court found the same way. Both courts emphasised the public interest towards coverage of police operations.

The Supreme Court however referred to the need to balance the ‘public interest’ against the interest of a private person and their informational self-determination. The Court stipulated that the image of a person can be used without their consent only in case of them being an actor of an important current event and the public interest overbalances the personal interest.

The latter is among the few cases of the ECtHR which the Supreme Court of Estonia has referred to and based its argumentation on. The Supreme Court also argued about the need to consider the moral damages in case the media organisation intentionally breaches privacy protection: ‘Relying on the fact that in this case the plaintiff has explicitly disallowed the use of his image but the defendant has intentionally done so anyway, the panel has come to the conclusion that such intentional infringement should be qualified as a circumstance that justifies compensation for damage under Article 134(2) of the Law of Obligations Act. Therefore, an apology is not sufficient judicial remedy in this case. The circuit court’ position that primary remedy should be refutation of the published material by the same broadcaster—from which the plaintiff has allegedly refused—appears to be incorrect. It is not possible to refute an unjustified usage of a person’s image.’

Hereby it is crucial that the Supreme Court refers to the routines of court practices of Estonia. Refuting and apologies as the primary reparation measures appear to be that trivial that the Supreme Court needed to underline that nonfactual infringements cannot be refuted.

4.2.3 The Leedo case as the most important value implementation since 2000

The article by Delfi on 26 January 2006 ‘*SLK lõhkus plaanitava jäätrassi*’ (The Saaremaa Shipping Company crashed the planned ice road) was open also for commenting. The article had 185 comments of which 20 breached the plaintiff’s (the owner of the shipping company) personal rights, and degraded their dignity. The defendant removed the insulting comments on 9 March the same year. Some comments included direct and serious threats towards the plaintiff.

The abovementioned Leedo *versus* Delfi case constituted the media organisation’s responsibility also in case of disclosing claims by anonymous sources – i.e. by providing anonymity the media takes the responsibility of the comments added on itself.

The adjudication of the Supreme Court on seventeen pages, for the first time publicly debated the liability of a media organisation for readers’ generated comments to online news items. *Inter alia*, the argumentation was partly based on the economic models of the particular media organisation as the reader-generated comments were considered to be part of the business model. As the Supreme Court stated: the more the news items get comments, the more the media organisation earns a profit. Hence, news organisations shall be liable for comments.

The media policy constituting outcome of the Leedo case, a result of proceedings at all three court levels, was to establish whether the comment sections of online publications should be considered as forming part of the journalistic work or not, and whether the media organisation should be considered to be solely an information service provider (as a container) or a content provider to whom liabilities can be applied.

4.3 Moral damage

The courts in Estonia have judged moral damages sparingly. One of the largest compensations sentenced paid by a media organisation was 200,000 EEK (12,782 EUR) – but this was due to the fact that an individual’s delicate information was revealed. The businessman Leedo was awarded 5000 EEK (320 EUR). Also an unidentified 50,000 EEK (3,200 EUR) compensation award exists.

The chair of the Supreme Court Märt Rask said:

‘The punitive damages have yet not become a common practice. The legal system of Estonia does not support the mentality according to which the sufferer from a non-patrimonial damage would need to become enriched and the tortfeasor equally to impoverish to re-establish justice. The compensational aspects of the damages still stay on the uppermost position.’²²

That practice has been affirmed also by the Estonian media organisations: ‘During the last 10 years the newspaper *Äripäev* has not paid a significant sum as a moral damage’;²³ ‘*Postimees* has never paid moral damages’.²⁴ The media companies prefer to reach extra-judicial agreements.

The so-called ‘Source protection act’²⁵ also introduced new principles of moral damage compensations, based on the punitive damages concept. The new regulation entered into force as of 2011 and was heavily criticised by the media as perceived as a threat to the press freedom. The head of Harju County Court, judge Helve Särgava commented on the new law in an interview to *Eesti Päevaleht* as follows:

‘I think the emotions have heated up here. A universal principle seems to be forgotten – No one will tear at a right man’s coat. I guess big controversy has grown from the issues that now we can preventively demand compensation and in particular cases the media’s anonymous source needs to be revealed.’ (Särgava cited in Roonemaa, 2010)

Särgava underlined the importance to rely on the judge, but also said that, as far as there was no practice, we could not predict the law amendment’s impact:

‘Based on facts, conscience, and the discretionary authority, the judge designates reasonable and fair deposit compensation. Definitely, this is a complex discretion, as by then it is yet not clear what shall be established in this case. The compensation shall be deposited from the funds of the media organisation. As I understand, this amount of money stays out of the turnover until the case finds its solution. More detailed description of the system can be provided after some particular case has been completed and the adjudication has taken effect’ (ibid).

²² Interview with Märt Rask, the chair of the Supreme Court, by Urmas Loit (in written format), Tartu, 5 October 2011.

²³ Interview with Meelis Mandel, the chief editor of *Äripäev*, by Marge Männistu, Tallinn, 28 May 2011.

²⁴ Interview with Tiia Luht, the lawyer of *Postimees*, by Marge Männistu, Tallinn, 12 May 2011.

²⁵ Officially: Act to Amend Broadcasting Act, Code of Criminal Procedure, Code of Civil Procedure and Law of Obligations Act, entered into force as of 31 December 2010.

The Chair of the Supreme Court Märt Rask said:

‘The quantum for the non-patrimonial damage needs to correspond to the welfare level of the society and other indicators of the legal system. Thus it would be improbable the damage compensations to zoom without corresponding upswing of the general welfare.

As the new wording of the law has simplified processing of damages, we can foresee growth in these types of lawsuits. The reasoned positive outcome of it would be growing care by media organisations in data disclosures.

Altogether one can say that the court practice has moved towards more sophisticated argumentation concerning the need to balance the rights of individuals and the public need for information. The moral damages certainly do not have any chilling effect on news organisations, still the need for better consideration of the circumstances that protect individuals against media seems to be more put on the agenda compared to the beginning of the 2000s.’²⁶

²⁶ Interview with Märt Rask, the chair of the Supreme Court, by Urmas Loit (in written format), Tartu, 5 October 2011.

5. The journalistic profession

Professional journalistic autonomy is one of the basic guarantees for the freedom of expression. Although the professional autonomy is also a long-debated issue in journalism studies and media ethics, both concepts (autonomy and transparency) are not easy to be achieved in professional journalism practice. While the journalistic institution itself seeks to exercise autonomy from outside or governmental control, individual journalists actually give up personal autonomy to a significant degree (Merrill, 1992; Christians Rotzoll, Fackler 1991: 33-57; Shoemaker and Reese, 1991: 115-144; Sanders, 2003: 27; Singer, 2007). John Merrill, the leading advocate of an existentialist approach (in relation to journalism), cynically declares: ‘... journalists in the lower echelons are going about their duties not as professionals who deal with their clients directly and independently, but as functionaries who fashion their work in accordance to supervision and direction by their editors, publishers and news directors’ (Merrill, 1989: 36). Singer (2006) creates the concept of ‘socially responsible existentialist’ (i.e. combination of existentialist freedom with a commitment to trust and responsibility) and argues that there is no need only for the renewed and dialectical approach to the practice of journalist but also the core definition of the journalist (Singer, 2006: 3). ‘As the nature of media environment changes, the definition and self-conceptualisation of the journalist must shift from the professional process of making information available to the professional norm guiding determinations about which information has true societal values’ (ibid: 25).

Hanitzch points out that the professional autonomy is high where journalism’s symbolic capital dominates over commercial forces. ‘I argue that it is the journalists’ professional worldviews that essentially fuel the struggle within the journalistic field,’ he says (Hanitzch, 2011: 478).

The following analysis focuses on the following question: what are the pressure mechanisms and factors of professional culture that support or restrain the *professional autonomy* of Estonian journalists? In order to explore the different policy factors that influence the journalistic profession we created a three-dimensional model.

First scale: internal and external pressures

- External pressures: these are political and/or economic pressures concerning the adverts and access to information. In Estonia journalists do not feel any political pressure. Hence, today the main problem would be the different types of economic pressure.

The increasing flow of PR-information written in news format and ready for use in unlimited online news sites diminishes the border between autonomous journalistic discourse and ‘outsourced information’ (e.g. only a minority of workforce is assigned to the production of original news stories in online newsrooms). Access to information and barriers could be the third type of external pressure.

- Internal pressures: procedures of content production could be more or less democratic and transparent. Journalists could be more or less responsible for the final publication. Pressure could come from owners, executive leaders or chief editors.

Second scale: the job market

- Entrance barriers to the job market.
- Transparency of job descriptions and competence requirements; transparency of job interviews.
- Job security; activity of professional trade unions.

Third scale: awareness of professionalism; co- and self-regulation; accountability instruments

- Effectiveness of accountability instruments (press council, codes of ethics, professional education) in enforcing existing norms and rules regarding journalistic norms and standards.
- The influence of the new media environment to journalistic autonomy and transparency (weblogs and microblogs in social media).
- Journalists' perception on the 'autonomy' concept and their awareness about the role of a journalist.

First scale: internal and external pressures

In Estonia, the professional community of journalists amounts to about 1100-1200 individuals. There are very few freelancers and some journalists work as registered self-employed entrepreneurs. Mainly journalists are employed by the media organisations. The majority of journalistic jobs in Estonia are mainly concentrated into three companies: Eesti Meedia, Ekspress Grupp and Estonian National Broadcasting. The overall number of journalistic jobs in 2011 in the press sector is about 1100 - it is the calculation that was done by counting the journalistic staff of the media outlets and broadcasters. The Estonian Newspaper Association reports about 700 journalists active in member organisations. The Estonian Journalists' Union has about 800 members (including retired journalists, students and freelancers). The limited number of jobs is a factor that increases the importance of the loyalty of journalists to the employer in their careers. The daily newspapers are major employees. About a quarter of the active journalists have graduated from the journalism programme at the University of Tartu.

Concerning the important notion, that professional autonomy is high where journalism's symbolic capital dominates over commercial forces, it is important to note that most of the interviewees of the present case study stressed that quality values are under attack in Estonian media organisations. The main reason that was pointed out is the commercial pressure. In the following quote a journalist says what she 'was told'. This wording refers to the internal pressures towards efficiency on account of quality and ethics:

'... "You should forget the quality", as I was told. I was told that 80 percent of what I am doing is *fine-tuning* and this is inept, as 80 percent of the readers would not notice this /.../. On contrary to what I acknowledge. /.../ I need to forget most of what I was taught at the university. Ok, to forget something is normal, something should be unlearned, but /.../ I should even unlearn my own ideas about quality, sometimes about ethics. /---/ In order to withstand

competition you should be especially productive and it is especially good if you have leaking sources... Your writing quality is also important but last in the line...²⁷

Concerning the internal pressure, it is important to emphasise that different media channels are in different positions (Harro-Loit and Saks, 2006). Especially the magazines, in order to survive, have developed strategies that may be seen to have erased the border separating advertisement and the editorial content. As magazines are very different as regards the public interest, it is important to note that there are certain topics that have public importance as they educate the audience in certain fields: health magazines, some consumer and life-style magazines; children and family magazines etc. For this case study we conducted an interview with the former chief editor (in post for ten years, until 2009) of a health journal. Health issues are of high public concern all over the world. Health magazines are also important information dissemination channels in Estonia. The editor said that she could feel direct pressure from both the foreign owners and the executive editor:

‘First we dealt with the cover ... the whole “jollity” went about the cover which never appeared to be satisfying, but we [the editorial office] could work undisturbed on the content and the circulation went up for almost five times, /--/ as the owners did not understand the language. /---/ But then we gave up with the cover. /---/ There needed to be a young woman on the cover picture /.../ not older than 35, or at least not looking older than 35. /---/ However, soon the discussion also reached the content – and the readership was too old. We were said that we were writing too much about diseases – how to determine, prevent or treat – but the buyer needed also to be a young person. The marketing gurus told us that the target audience needed to be young and wealthy. Old people do not have money, they said. /---/ The owner also told to dismiss old authors. /---/ OK, we, the content makers did not give up our position either – as the real life proved that middle aged people and a bit over it liked our work and the circulation endured. /---/

Then a young author wrote an in-depth warmhearted portrait story about a soup kitchen executive, /---/ how the destitute people praise her, and the pictures of the attendees. We choose some pertinent, delightful photos not to shock anyone. And for that we were heavily rebuked for several months – how could we publish such photos. Further on, the executive manager, whose primary task was to economically run the office, reviewed all illustrations and had to approve all the choices. Gradually all the real-life photos ceased to appear – no real medical workers, no respectable sources, no one. Even not the professor emeritus who received the state award for lifetime achievement – for breeding the bioactive germs ME3. Consequently, all photos were chosen from stocks – the image photos. /---/ In short, it went crazy. We were continuously drummed that a magazine needs to sell dreams to the people.²⁸

²⁷ Interview with a journalist in a weekly magazine (female, working occasionally since 1999, higher education in journalism as a surplus speciality), by Jaanika Niinepuu, Tallinn, 9 September 2011.

²⁸ Interview with a former chief editor of a health and life magazine, by Urmas Loit, Tallinn, 25 September 2011.

In addition to a value conflict – the editor did not accept ‘selling-the-dreams’ ideology – this case reflects a notable problem in Estonia: discrimination by age. In the context of the current study, the fact that journalists did not have possibilities or motivation to rebel against this youth-praising ideology is notable. The intervention was imposed step-by step. Another important aspect would be that such stories appear to be published only in academic research papers, BA or MA thesis on journalism. There is hardly a possibility for an acting editor-in-chief to release a narrative on such practices or that kind of topic would serve as an issue for a public debate.

Commercial pressure on content is also immediate for the newspapers’ ‘soft news’ or B-sections. One of the interviewees who had been working at the B-section of a national daily recalled:

‘We have heavy pressure by advertising. Unbelievable! We are even told to send the topics to the advertiser – then it will decide, whether to by a large ad or a small... And you need to prepare the topics some two weeks ahead for the sales person who will forward these to the clients. There have been several conflicts about it – who did you write this way or why some story was not there. Sometimes it has been completely crazy.’²⁹

However, journalists who had been working for (hard) news said that they had not felt any commercial pressure.

The major external pressure the interviewees mentioned was access to information. More precisely almost all interviewees were complaining about the PR sector. Several journalists said that as the law prescribes a deadline for information delivery (within five working days) to the public, the bureaucracy often releases the information at the last legitimate minute knowing that the journalist would need that information swiftly. The journalists suspect that during the term of reply to the request the holder of information manages to rectify the issues and paperwork under investigation.

Here the information processing routines and habits should be analysed critically. The Public Information Act (hereinafter: PIA)³⁰ forms the basis for information management in general, although more specific areas are covered in other laws. PIA sets the main principles for publishing and withholding information, the obligations of institutions, the requirements to the document registry, which information has to be provided based on requests within five work-days and which has to be published on web-sites,³¹ the basis for restricting information etc. In general, it can be said that the restriction of information is rather limited and the regulation in

²⁹ Interview with a journalist in the B-section of a daily newspaper (female, currently on child care leave, working experience since 2006, higher education in journalism), by Jaanika Niinepuu, Tallinn, 8 October 2011.

³⁰ The main legal acts regulating the public information management include Public Information Act, State Secrets and Classified Foreign Information Act, Personal Data Protection Act, Official Statistics Act, State Gazette Act, Population Registry Act, Archives Act, as well as several acts on different registries (e.g. environment, businesses, land etc.).

³¹ For example the list includes document registry, (draft) budgets and annual reports, statistics on crime and economics, contact data, job descriptions and salaries of public officials, different reports, data on vacant positions, public procurement, commissioned surveys and analyses, environmental information, data on danger for people’s lives, health and property etc. (Public Information Act, Art 28).

general can be regarded as promoting transparency (Saarniit 2011/12). Access to relevant information is mostly available and in most cases there are no major obstacles in getting the information. The web-sites of the Estonian central government agencies tend to be thorough and include most of the information that is required. However, there are differences between institutions, and especially between administrative levels, with the local government being less transparent (Peep, 2010); the web-sites are not always user-friendly, i.e. finding information (especially for an ordinary citizen) may take a long time (Saarniit, 2011/12).

Hence, it is important to point out that journalists in Estonia have rather a tendency to be too dependent on the communication managers of certain organisations and do not make enough use of all the legal possibilities actually provided by the Estonian laws.

Concerning the investigative journalism the whistle-blower policy for public servants is regulated by the Anti Corruption Act (ACA), article 23, that requires officials to report on corrupt activities known to them to the director of the institution, defence police, police or prosecutor's office. Although, the ACA states that anonymity will be guaranteed unless the information is motivated by personal gain or if the testimony is needed to prove the crime, this regulation cannot be regarded as a sufficient whistle-blower protection. In addition, an anonymous option has been guaranteed via a telephone hotline that is monitored by the Defence Police that forwards the tips to relevant institutions if necessary (Saarniit, 2011/12). The protection of information sources was legally adapted in 2011.

At the same time, whistle blowing in such a small society as Estonia is very problematic anyway as the interactive part of news (anonymous comments) provide the possibility to give hints on the source or the information maintains such specific character that the source can be established contextually.

Second scale: The journalists' job market

The Journalists' Union has been weak since the re-establishment of the Republic of Estonia and only the PSB journalists have got a collective job agreement.

One interviewee (the former chief editor, also a member of the Journalists' Union) explained the reasons why the Union is not able to protect the journalists' integrity and secure the job conditions:

'... If to look at the individuals' level – who are the members of the Journalists' Union? Mainly retired or withdrawn journalists. In several concerns the employees by default are expected not to join the journalists' union, sometimes the membership has even officially been banned. Some may reject this rule and be a member anyway but I cannot see much motivation for that... Any journalist would like to eat.'³²

Rumours about restrictions concerning the membership of the Journalists' Union have been in the air since the independence of the state was re-established. In

³² Interview with a former chief editor of a health and life magazine, by Urmas Loit, Tallinn, 25 September 2011.

2004 Marianne Mikko, a former journalist and then member of the European Parliament wrote in the cultural weekly *Sirp*:

‘In Estonia only 10-15% of journalists belong to the trade union. /.../ Regrettably membership of the Journalists’ Union is not considered positive for the leaders of media organisations. By contrast, during the personal salary negotiations journalists pledge not to have ties with the Journalists’ Union. The Estonian Newspaper Association representing the employees, would do anything in order to also look like a professional guild. Many Estonian journalists are afraid to join the trade journalists’ trade union’ (Mikko, 2004).

As the Journalists’ Union is weak in Estonia, the journalists’ job security is not secured by the trade union, nor are there any collective employment agreements: except for the PSB. But in 2009, even the PSB consecutively dismissed two elected representatives of the union (Mari Dittmann and later Maris Johannes). Maris Johannes’ dismissal caused a revolt and public appeals by cultural circles and academy members and she was proposed to carry on with 20% of her original work load.

Entrance to the journalistic job market is not regulated, but the majority of the interviewees noted that the job market is so small that the best variant is to ‘be invited’. The majority of interviewees started as ‘summer reporters’, were practitioners at media organisations and later on were offered a full job. Only half of the interviewees had a job interview experience. None of them got feedback concerning their competences or features that helped them to get hired or - on by contrast - why they were discarded. They could not recall any criteria set for the job they applied to. One of the interviewees admitted that she was fired without being provided with any critique. Initially her sacking was linked to a reduction in costs but later another person was hired for the same job.

All interviewees said that possibilities to find another job as a journalist appear to be higher in Tallinn as most of the news organisations are situated there. One of the interviewees provided an explanation how the scale of competencies could impact the job security:

‘If you are a mono-functional worker, for example typing something in the online, your stand has low perspective in case the costs are cut or anything else happens. The probability to get an invitation from another media organisation is low. In case you are a multitasking person, or you have a prominent name or you know many in various outlets, you possess a better perspective.’³³

The perceptions on ‘journalistic autonomy’ are different. Some journalists said that they could not understand this term or they had never thought about it. Some journalists described different threats to their autonomy although they did not label them. The most elaborated description emphasised the differences between the internal and the external pressure:

³³ Interview with a chief editor in an online-portal (male, working since 1992, higher education in journalism), by Jaanika Niinepuu, Tallinn, 8 October 2011.

‘This primarily means freedom to write independently of external people and sources. /---/ In some cases – and I don’t speak about the current political issues, but soft topics – we can discuss about setting the focus with the sources as well. But I needn’t do it. Yet, internal affairs make a different matter. You need to subordinate to your boss. The independence is somewhat trammelled – you need to write in the way your boss likes, not as you would like to address the topic. I choose one focus, but my boss suggests another focus ...’³⁴

There is quite a lot of confusion about in-house rules and the individual autonomy of journalists.

Concerning the in-house pressure mechanisms, the interviewees mentioned, errors that are inserted into the texts in the editing process. Although a journalist produces a ‘bylined’ article, the text editors change the text and insert errors and the journalists would not always have a possibility to control the process until the end. Some interviewees mentioned that the ‘author’s rights’ depend also on organisational culture and the self-determination of a certain journalist.

Most of the interviewees could not easily express themselves while speaking about the professional autonomy. They admitted to the interviewer that they had not been thinking about these issues before and only while being interviewed had they apprehended some new viewpoints to professionalism. This reflects a poor journalistic culture concerning the discussions among the professional community about the journalistic profession.

Another recurrent aspect concerning the professionalism of the Estonian journalists’ community is the distinction between leaders of the media organisations and journalists (reporters, editors, middle managers). As will be discussed later, concerning the issue of media literacy and transparency, most of the chief editors see the media organisation as any other business organisation, whilst the journalists’ perception of a news organisation contains more transparency and openness for the general public about the everyday practices and editorial policies.

The difference concerning journalistic autonomy is reflected also in two different unions (associations) and two different press councils. Journalists’ Union is the member of the original press council (ASN) while the Newspaper Association established another Press Council. The editors-in-chief have instructed journalists to provide answers to ASN. In 2008, the editor of Kanal 2, Antti Oolo, requested ASN did not disseminate the adjudications to their editorial office: ‘... The Estonian media channels have decided long ago to unanimously ignore ASN. /---/ I recall when working at *Eesti Päevaleht* all staff members received a corresponding e-mail. Also the chief editor individually instructed us all ...’³⁵

In recent years this attitude has softened gradually but still in the case of most complaints to either press council, the answer from the media organisation is usually

³⁴ Interview with a journalist in a weekly magazine (female, working since 2005, higher education not in journalism), by Jaanika Niinepuu, Tallinn, 15 October 2011.

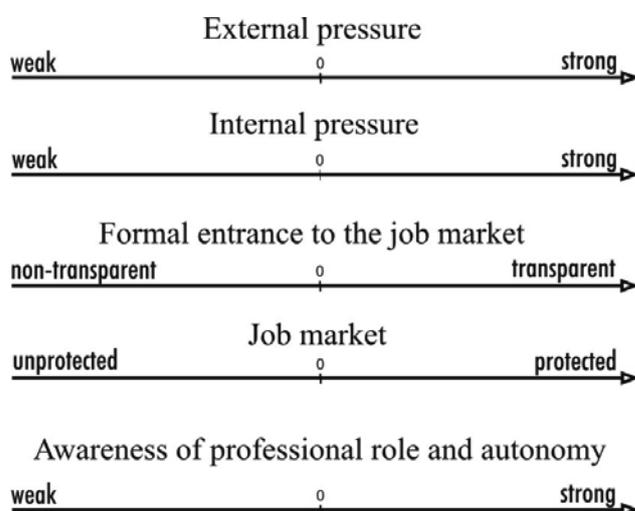
³⁵ See <http://www.asn.org.ee/foorum/viewtopic.php?t=439>, in Estonian (date accessed 25 November 2011).

composed by the chief editor.³⁶ According to the interviews conducted, the journalists regard this to be an appropriate practice which provides them with the necessary editorial protection. None of the interviewees perceived ‘replying to the complaint’ as an option to be personally accountable. Thereby, during the qualitative interviews journalists considered self-regulation the best regulatory system for journalism.

Journalistic profession and the pressure-model

While putting the journalistic professionalism on the three scales one can construct the following evaluation schema.

Figure 1. Evaluation schema for journalistic professionalism.



The schema of Figure 1 presents the aspects, in which the journalism profession protects the freedom of expression and the major barriers in particular countries for professional autonomy.

Estonian journalists have described several in-house pressure mechanisms but few external barriers. Entrance to the professional job market is rather non-transparent but journalists have accustomed to this aspect. The professional (trade) union mainly does not protect the job security. Journalists rather seemed to be confused about the ‘autonomy’ issue – it has occurred as a subject mainly for academia, but not for practitioners. It is important to note that among the professional community there exist different groups of journalists who do not share similar understandings on the journalists’ professional autonomy issue.

³⁶ However, ASN asks for an explanation from both - the chief editor and the journalists. This procedure was introduced after the chief editors’ demarche against ASN and its then chairman in early 2002.

6. Media literacy and transparency requirements

The promotion of media literacy as a goal of media education is an increasingly important issue that is being given priority by the European institutions. The Audiovisual Media Service Directive, still, speaks about the 'media consumer' not about the 'media literate citizen'. As the consumer and citizens are anyway getting more ability to choose the content and on the other hand huge international corporations get more control over the content, the media literacy issue for democracy is increasingly important.

The implementation of media literacy is a multidimensional process that includes the development of media education in the formal education system (national curriculum included) as well as teacher education and various projects that support adult-education. Transparency could be defined as a disclosure transparency which means that news producers are open about how news is being produced. It is an 'active' type of openness. Disclosure transparency presupposes a common faith between the producers and consumers of news but does not facilitate explicit participation by news consumers (Karlsson, 2010: 537). A long-debated focus of disclosure transparency has been the relationship between journalists and news sources (Kovach and Rosenstiel, 2001; Rupa, 2006; Phillips, 2010). Hence, this would include links to sources and original documents, openness on how information has been obtained, and correction of mistakes. Participatory transparency aims at getting the audience involved in the news production process in various ways (Karlsson, 2010: 538). Both these concepts include 'talking with readers' activity that enables citizens to make informed choices about the media services they choose. Therefore it would be important to ask: what would motivate the Estonian journalists to make a greater effort to explain the editorial decision-making process? On the other hand the readers/users should be able to be ready for this dialogue. Hence, the question of media literacy implementation is important.

The communication policy that guarantees access to the Internet has been especially efficient in Estonia. The rapid increase of Internet usage since the end of the 1990s is linked with several factors, such as government initiatives, the liberalisation of the telecommunications market (foreign investments, increasing competition and decreasing prices), and the development of e-banking. All government institutions were pooled into one e-government services portal³⁷ in 1998, and in 2004 the e-citizen project was implemented. Under the initiative of government and NGO initiatives the Internet was made accessible for segments that are of little interest to commercial vendors – the focus has been on schools and rural areas. *Tiigrihüpe* (Tiger's Leap), Estonia's IT programme has provided computers and software for schools and helped to connect all the schools nationwide to the Internet (Kerem, 2003: 7). Since 2001, competition in the Estonian telecommunications market has increased causing Internet access prices for consumers to drop. The low cost enabled a 'critical number' of Estonian citizens to get Internet access, especially at home and Internet banking had already started in 1996. Frequent Internet users in Estonia enjoy various advantages; Internet communication (especially among young people) is multifunctional: it is used for services, interpersonal communication and information searches.

³⁷ <http://www.riik.ee> (date accessed 21 December 2011).

Another important policy tool in promoting media literacy is its inclusion within the terms of the Audiovisual Media Services Directive (AVMSD). As Estonia transposed the new provisions into national law in 2010: ‘...development of media literacy in all sections of society should be promoted and monitored’ (Commission of the European Communities, 2007: paragraph 37). In practice there is no media literacy monitoring. Media *education* has been decreased in the national curriculum of formal education: in the national curriculum 2002, media education was introduced not only as a cross-curricular approach but also as an optional course (Ugur and Harro-Loit, 2010: 138). Since 2010, media-education is only a cross-curricular theme and one 35 hours long course within the Estonian language as a subject. The concept of the cross-curricular theme (‘performance in information environment’) corresponds to the general ‘media literacy’ definition with regards to the different roles an individual can have within the communications process. Hence, media education as a cross-curricular theme provides many excellent opportunities in case the teachers have been sufficiently educated to be competent. Very little documented material exists on either how these competences should be taught in the classroom (methodologically) or what kind of resources would be needed (ibid: 143). As the media is not a subject at school, teachers’ education does not include media education as a compulsory part. If a student is interested, they could take it as an elective subject but usually students’ curricular is already filled up with obligatory courses.

An additional problem is created by inaccessibility to the general public of the information about ‘backstage’ activities of the media industry, or the performance of the media in Estonia. On the one hand, in order to comprehend the performance of the media market, one should acquire basic knowledge and vocabulary on issues of ownership, contemporary media economy and legislation – but this discourse is not widely common in Estonia. On the other hand, news people hold diverse views on transparency or the professional media performance issues.

Based on the interviews made with the chief editors we can conclude that the perception on the concept of ‘transparency’ varies by the range of the coverage area of the newspapers the editors represent (regional *versus* national). Among the chief editors a common view of media organisations like any other business prevails, while the journalists revealed more ample readiness to explain their work. In addition, the editors sometimes stressed that, preferably, the output should speak for itself.

‘Absolutely, they [the print media outlets] aren’t [transparent enough in Estonia]. There isn’t any conspiracy behind this – that we must not display the state-of-affairs to the public, as if there were some business secrets or maybe the competitor would learn what we do. The newswriters do not think that way. /---/ For many it feels like excessive vanity: they tend to think that media should write about important issues, not about itself. /---/ Media organisation does not differ from other business’ organisations – any editorial staff has disputes and disagreements, but I do not think that all of it should be unfolded in front of the audience. It would rather affect the media’s health than promote freedom of speech. I would like to draw a line between public discussions and the in-house working processes. It should be that way in case of any editorial office.’³⁸

‘The editorial office’s work cannot be that much transparent that anyone might come to the office and observe. It even shouldn’t be transparent, but it should

³⁸ Interview with a chief editor of a weekly newspaper, by Juhan Lang, Tallinn, 1 April 2011.

be understandable for the reader – how do the news emerge and how do the journalists work, but in this field the explanations to the public tend to be endless.³⁹

By contrast, the editor-in-chief of the regional newspaper says that the newspaper offices are too close. A former editor of a regional newspaper points out the alienation from audience, and also the difference between the regional and local press:

‘The Estonian media is very closed for the readers. It starts from the fact that readers cannot come to the newsrooms. I saw it in *Eesti Päevaleht* [the Estonian daily newspaper] how it used to be. /---/ Some years ago people came to the newsroom and even if there was a secretary in her desk, but people could still come through to the newsroom. That was considered to be bad, because people came to complain and journalists didn’t want to talk to them, they disturbed. This is very wrong that people can’t come to the newsroom any more. Regional newspapers are somewhat an exception in that matter, people can come there more often, and dozens of people come in a week. /---/ of course it is annoying for the reporter, but I don’t understand why the reporter’s life should be so easy. /---/ Maybe these days when there is shortage of workforce in newsrooms the work may be somewhat more intense, but meeting the readers is also a way to increase transparency.’⁴⁰

He also points out the problem of alienation between professional journalists and audience:

‘The readers do not know much about how the life of a reporter works and what goes on behind the scene /---/the public tends to see the journalist as a very hostile person, that is scary /---/ that shows that we are unfamiliar to our readers, our work is very opaque to them.’⁴¹

His colleague (editor-of-chief of the same paper since 2010) pointed out the need to educate the reader:

‘Our reader often doesn’t make sense out of our stories, as he misses the text’s context which appears to be clear for the writer – and the reader can deduce points that the journalist has never even thought of. /---/ There is some kind of media education at schools but three quarters of the population haven’t heard anything about [news criteria, genres, etc].’⁴²

These interviews show again that on the one hand journalists and the leaders of media organisations have different views on the accountability of professional

³⁹ Interview with the chief editor a local supplement to the national daily, by Juhan Lang, Tartu, 7 April 2011.

⁴⁰ Interview with a former editor of a regional newspaper (non-incorporated), by Juhan Lang, Haapsalu, 13 April 2011.

⁴¹ Ibid.

⁴² Ibid.

news media. On the other hand there is a difference between the news people who work for the regional media. The differences reflected by the quotations from interviews demonstrate that professional culture concerning disclosure is heterogeneous.

As Estonia does not have websites or publications that currently publish critical overviews on media issues (including the ownership, editorial, and the personnel policies of media organisations etc.) the major information about the Estonian media conduct could be found from academic research papers (students' research included). The only journalism education programme has been launched at the University of Tartu, and Bachelor and Masters' theses have been made publicly accessible.

7. Conclusion

The general strengths of the Estonian media policy formulation and implementation include recognising freedom of speech as one of the most important values in democracy, and good legal regulation concerning the access to information. Like the Nordic countries (e.g. Finland, Sweden, Norway) freedom of expression and high-speed Internet connections throughout the country secure the population a plurality of choices. However, despite these strengths, there are several key problems that weaken the 'information order' which enables citizens to make decisions and act in a democratic society. Media policy has been influenced by the small state and society issues and the weak political wish to control the application of laws and rules that regulate (broadcasting) content. The integrity of the local media, with low economic resources, is the least protected niche market. The individual autonomy of journalists is not well protected as the Union of Journalists is weak and the profession's awareness concerning its role and integrity is erratic.

As the Estonian media policy is officially formulated as a liberal one, any actors are able to exert substantive influence on media policy implementation. Some actors are rather more active than others and some regulations are more often implemented than others. Digitalisation and the development of social media have affected the business model of Estonian professional journalism but due to the oligopolistic situation (a few strong companies) daily news organisations are still able to perform economically.

The analysis conducted for the present study revealed that the absence of continuous content monitoring as an instrument might be the reason why the broadcasting stations do not really care about the licence content requirements.

The Estonian legal system and courts strongly protect the freedom of speech on behalf of the audience. Although the jurisprudence of the ECtHR is infrequently cited by the Estonian Supreme Court there is a strong similarity in the basic values. Freedom of speech has been the most protected value, but recently the privacy and human dignity issues have been more soundly interpreted as well. The first case concerning online libel (*Leedo v. Delfi*) was covered by an elaborated law court adjudication. The progress of the court argumentation (comparing the first and second stage decisions to the final one) is remarkable. Generally the Estonian Supreme Court has vastly improved the argumentation culture as regards the balancing of contradicting values in the media during the last decade.

The two self-regulatory bodies (the ASN and the ENA Press Council) make the discussion on media ethics more active, as well as more diverse. Especially when their adjudications provide a different argumentation. The dual-body system also reflects the problem that the composition of the self-regulatory organ also induces the argumentation: whether the organ should be critical towards the media or produces self-justification. Self-justification as one of the problems concerning the media's self-regulation was also well reflected in the interviews with the journalists, in which the majority of interviewees said that 'the organisation and its leader should protect journalists against the complaints'. As the lack of dialogue and strong self-justification with regard to press complaints was apparent in the analysis done by Eva Kübar (2006) one can conclude that as a policy tool, the self-regulatory system in Estonia has retained a dialogue between the media and general public only due to the two self-regulatory bodies.

As Estonia is a small society any crisis of the journalism business model would affect the entire commercial media sector, hence the importance and the role of public service media should increase. Once advertising was removed from public television and radio (PSB), the public and private sectors do not compete for earnings in the advertising market, and the change (of no commercial pressure) was immediately apparent in programming. This balancing strategy has been most suitable for small states (Svendsen, 2011: 138-140) but the PSB still needs a more stable financing model. Surprisingly, neither is the journalistic culture specifically well protected in PSB.

Political decision-makers would rather regulate media content less and consequently the need for monitoring would decrease. The serious problem is that none of the politicians perceived the risk for professional journalism in the situation where the old business model is in crisis. In the interviews, we could not identify any future visions of political tools that could balance the commercial interest with the public's need for professional, trustful and non-biased information.

Estonia is so small that the local media and local communication would need special support. As the monitoring of local radio shows, even when the licence requirements demand local news production, nothing happens if these requirements are not fulfilled.

One important conclusion to be reckoned with in media policy analysis is that journalists (reporters, editors) and the top management in national dailies have different views on actor and process transparency in media organisations as well as on the profession's integrity. Regional newspaper journalists hold different positions concerning the role and transparency of journalism and the relations to the audience members. This is so, whilst the media entrepreneurs are cutting down the production costs and even the journalists would like to invest more into the quality of their reportage. In Estonia journalists could be the major group that could balance the situation where the commercial values overrule the professional values.

As we mentioned before, on the one hand the Union of Journalists is weak but on the other hand the interviews show that the younger generation of journalists, in particular, are unaware of their professional role and values. There is a lack of professional discussions in the newsrooms and the analysis of journalism is mainly rather in academia. There are several possibilities and forums for this (e.g. regular meetings of the Academic Society of Journalism), but these discussions usually assemble those who already have either or both a stronger identity in journalism as a result of a longer career and have studied at the University of Tartu (alumnae of the Institute of Journalism and Communication). Also the older generation of journalists have a strong personal value system (Kasenõmm, 2011). Hence, the problem of keeping a strong and autonomous journalistic community is partly linked to that element of the professional community that 'comes and goes'. The Institute of Journalism has tried to do research on personnel dynamics in media organisations but media organisations either do not have the proper data or do not allow any external access.

Therefore it is not only the political autonomy that should be protected but also the journalistic profession, actor and production transparency and debate over journalistic information processing quality. The central question concerning the implementation of liberal media policy remains: what would motivate the actors to invest into quality. Participatory or citizen journalism is making its first steps in

Estonia and the new interactive possibilities have not yet provided the means for the media's primary mission: for being a watchdog and for setting the agenda. At the same time media policy implementation with regard to media literacy is dependent on the educational policy in general: converged media; the hybridisation of different genres and formats; the saturation of information source. The ability to access, understand and create communication in a variety of contexts would require a critical mass of media literate population. Hereby the smallness of a country could serve as an advantage. As the media literacy has been included as a cross-curricular topic in the national curricula, the key question for now would be – with what level of quality the universities instruct the future teachers of formal education and to what extent the Ministry of Culture and the Ministry of Education could co-operate in sustaining media education for adults.

In summary, the smallness of the domestic market spotlights the principal threat to journalism professionalism and democracy: the cheapness of journalistic content. The imminent costs of domestic news production remain high despite the size of the audience. Consequently, the economic pressure on quality; the diminishing line between journalistic and PR information; the relatively low job security rate – all these factors jointly constitute a risk to the journalistic profession and professional content production practices which serve as an essential safeguard for democracy. In the Internet era the protection of media freedom and freedom of expression is still important but it is important to distinguish these two freedoms and to ask critically whose interests and what values this freedom is serving? The Estonian media political debate prefers to avoid asking this question.

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9. List of interviews

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Interview with Igor Gräzin, the MP and the member of the National Broadcasting Council, by Urmas Loit, Tallinn, 24 September 2011

Interview with Rein Lang, the Minister of Culture, by Urmas Loit, Tallinn, 4 October 2011

Interview with Märt Rask, the chair of the Supreme Court, by Urmas Loit (in written format), Tartu, 5 October 2011

Interview with Peeter Sookruus, the head of the department of media and copyright of the Ministry of Culture, by Urmas Loit, Tallinn, 4 October 2011

Interview with Meelis Mandel, the chief editor of Äripäev, by Marge Männistu, Tallinn, 28 April 2011

Interview with Tiia Luht, the lawyer of Postimees, by Marge Männistu, Tallinn, 12 April 2011

Interview with a journalist in a weekly magazine (female, working occasionally since 1999, higher education in journalism as a surplus speciality), by Jaanika Niinepuu, Tallinn, 9 October 2011

Interview with a journalist in a weekly magazine (female, working since 2005, higher education not in journalism), by Jaanika Niinepuu, Tallinn, 9 October 2011

Interview with a former chief editor of a health and life magazine, by Urmas Loit, Tallinn, 25 September 2011

Interview with a chief editor in an online-portal (male, working since 1992, higher education in journalism), by Jaanika Niinepuu, Tallinn, 8 October 2011

Interview with a journalist in a weekly magazine (female, working since 2005, higher education not in journalism), by Jaanika Niinepuu, Tallinn, 15 October 2011

Interview with a journalist in a B-section of a daily newspaper (female, currently on the child care leave, working experience since 2006, higher education in journalism), by Jaanika Niinepuu, Tallinn, 8 October 2011

Interview with a chief editor of a weekly newspaper, by Juhan Lang, Tallinn, 1 April 2011

Interview with the chief editor a local supplement to the national daily, by Juhan Lang, Tartu, 7 April 2011

Interview with the chief editor of a regional newspaper (non-incorporated), by Juhan Lang, Tartu, 13 April 2011

Interview with a former editor of a regional newspaper (non-incorporated), by Juhan Lang, Haapsalu, 13 April 2011



Entry 6

ESTONIA: CONFLICTING VIEWS ON ACCOUNTABILITY PRACTICES

by

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ESTONIA

Conflicting views on accountability practices

Urmas Loit, Epp Lauk and Halliki Harro-Loit

Abstract

Broad press freedom was a major outcome of Estonia's liberation from the Soviet regime. Among CEE countries, Estonia was the first to inaugurate the ideas of media accountability, self-regulation, and a Press Council. The tradition of the Estonian language press acting as an agent of 19th-century nation-building and 20th-century national survival advanced the accountability concept. Journalism education in Estonia (established 1954) subtly supported national values over Soviet ones. Hence, most journalists developed a professional identity in line with democratic values and cynical attitudes about communist ideology. The idea of socially responsible media was implicitly present in this professional identity. Competition and commercialization in the 1990s and 2000s have undermined furthering the practice of media accountability. Traditional MAIs (press councils, ombudsman and ethical code) have little authority among journalists and the public, whereas online MAIs are still embryonic and uninfluential.

Introduction

After declaring independence, the Estonian state granted full freedom of expression and press freedom. However, until the Estonian Constitution was passed in 1992, there was practically no regulation of the media. The old laws were no longer followed; any understanding of 'good journalism' and ethical conventions was limited among journalists, and the new regulations were still to be introduced. Thus, for a while, freedom of speech and freedom of the press were interpreted among journalists as freedom from any kinds of restrictions. In the early 1990s, this absolutely unlimited freedom created an atmosphere where journalists often did not follow the elementary conventions of their profession and underestimated the sensitivity of certain issues in society. It became evident that some regulation of media practices was necessary, although journalists had a controversial attitude towards ideas of any kind of regulation. They principally agreed with the necessity of an ethical code (according to a 1995 survey, 64% of journalists interviewed considered it necessary), but the proposals to establish rules were often seen as attempts to reinstate censorship. Therefore, a case-by-case method was chosen for setting rules and developing the understanding of 'good journalistic practice'. As early as 1991, Avaliku Sõna Nõukogu (Estonian Press Council - EPC) was established, taking the Finnish experience as an example (Lauk and Høyer, 2008, p. 15). In this way, the accountability mechanism was developed on the basis of casuistry. Less effort was made for creating the Code of Ethics (which was adopted only in 1997). The code has not been updated since its adoption because of clashes of different views on the functions and implementation of self-regulatory mechanisms among media elites. In the course of the struggle for the upper hand in self-regulation practice, another Press Council (Pressinõukogu - entirely controlled and driven by the media industry) was established. Thus, Estonia today has two Press Councils that base their decisions on the same Code of Ethics but have different principles of composition and different statutes.

No ombudsman institution has been introduced in the Estonian press. However, in 2007, an ethical advisor was appointed at the Estonian National Broadcasting Company. The advisor basically fulfils the functions of an ombudsman.

New web-based forms of accountability, supported by the public and/or NGOs, are only just emerging and have minimal influence on media practices.

Journalistic culture and media system

The Estonian-language media is produced for and consumed by less than a million people. According to the 2012 census, the largest minority language in Estonia is Russian, which is spoken by 25.6% of the population. Their media consumption habits are more oriented towards Russia than towards the local market, which is rather limited (see more about the Russian language media in Estonia: Jõesaar, Jufereva and Rannu, 2014).

Since the early 1990s, two parallel developments have characterized the media environment in Estonia: (1) a high degree of press freedom and (2) a laissez-faire market policy. In Estonia, a combination of extensive freedom of the press¹ and a highly concentrated but unregulated market has clearly resulted in the favouring of economic and business interests over socio-cultural and political ones (Van Cuilenburg and McQuail, 2003). Within an oligopolistic market situation and minimum state interference, nothing impedes the corporate interests from taking the upper hand.

At present, two large media corporations dominate the Estonian media market: Eesti Meedia² and Ekspress Grupp (both owned today by Estonian investors, the latter being a quoted company with a core investor). The press market is of an oligopolistic character: the two aforementioned companies publish the two competing national dailies, *Postimees* (Eesti Meedia) and *Eesti Päevaleht* (Ekspress Grupp). After the ownership of Eesti Meedia by Estonian investors, Ekspress Grupp³ acquired the only national tabloid, *Õhtuleht*, as well as the largest magazine publishing company, with 34 magazines and seven web portals, which all were heretofore equally shared by the two corporations. Ekspress Grupp also owns the major Internet news portal *Delfi* and publishes two major national weeklies (*Eesti Ekspress* and *Maaleht*); Eesti Meedia publishes five of the largest regional dailies. A Bonnier-owned business daily, *Äripäev*, does not compete with the other dailies for the general public, but is more targeted at the business sector.

The 2008-2010 economic recession continues to strongly influence media development. Although the number of titles of newspapers and magazines has not declined a great deal,⁴ the circulations and readership have significantly decreased. The circulation numbers of major newspapers have been dropping since 2008, on average by 42%.⁵ Readership has dropped by 13% since 2008. For example, from 2008 to 2014, the largest daily, *Postimees*, has lost 20% of its circulation, while its Russian-language edition's circulation dropped by 47%. The business daily *Äripäev* has lost 44% of the circulation. In 2014, the largest circulation of newspapers was 50,000 (*Postimees* and *Õhtuleht*).

The decrease in newspaper reading correlates with increases in both the use of the Internet (63% of the population uses the Internet daily⁶) and reading newspapers online.

¹ In the rankings of Freedom House and Reporters Without Frontiers, Estonia is placed in the top 15 nations, among the Nordic countries, Belgium, the Netherlands, Luxembourg and Switzerland.

² In 2013, Eesti Meedia, owned by Norway's Schibsted AS, was sold to Estonian companies. In 2014, Eesti Meedia obtained the possession of the Baltic News Service, which until then had been owned by Finland's Alma Media.

³ The right to buy out these holdings emerged from an earlier contract between the two companies. Possession of *Õhtuleht* and the magazines' publishing company were rendered to Suits Meedia OÜ. However, on its homepage, Ekspress Grupp exhibits them as a part of its conglomerate. See also <http://www.egrupp.ee/companies/as-ajakirjade-kirjastus>

⁴ In 2013, 127 newspapers, about 320 magazines and 485 other periodical publications were published in Estonia. Source: National Library of Estonia (<http://www.nlib.ee/tmkitoodangu-statistika>). The data by the Estonian Newspaper Association indicates far smaller numbers of newspaper titles than the National Library of Estonia (Vihalemm, Lauristin and Kõuts, 2012).

⁵ Calculation based on data by the Estonian Newspaper Association: <http://www.eall.ee/ajalehetootus/index.html>

⁶ Data by Eurostat for 2013.

The advertising market has also experienced a decrease, an especially dramatic one for newspapers and magazines,⁷ which are gradually losing their positions in the market to television and the Internet. In the first quarter of 2010, the share of newspaper and television advertising revenues equalized (at a level of 31%); in 2014, the revenue for television exceeded that of newspapers (26% vs. 23%). The income of newspapers is also decreasing in absolute figures, whereas all other sectors have been growing. Meanwhile, the proportion of Internet advertising is growing rapidly: from 11% in 2008 to 19.2% of the total advertising revenue in 2014.⁸ However, the newspaper sector remains the most influential.

Newspapers also produce most of the original news content, both online and offline (Balčytienė and Harro-Loit, 2009, p. 524). Television and especially private radio mainly follow the news agenda set by newspapers, and to a great extent reproduce the newspapers' news flows.

The broadcasting sector consists of one public service broadcasting (PSB) company *Eesti Rahvusringhääling* (Estonian National Broadcasting- ERR) with two national TV channels and four national radio channels, as well as two major commercial companies with four national TV channels, and a few regional and local broadcasters (distributed via cable). In addition, nearly 30 commercial radio channels operate. Along with the increasing availability of a range of cable and satellite channels, the fragmentation of the Estonian TV market is gaining pace. The aggregated share of the three largest channels (ETV, Kanal 2 and TV 3) has dropped from 54% in 2008 to 43% in 2013.⁹ Both daily TV watching time and radio listening time have decreased throughout recent years. In November 2013, an average person watched TV for 3 hours and 51 minutes and listened to the radio for 3 hours and 48 minutes. From July 1, 2010, Estonia switched entirely to digital terrestrial television transmission.¹⁰

The majority of journalistic positions in Estonia exist at three companies: Eesti Meedia, Ekspress Grupp and Estonian National Broadcasting, all based in the capital, Tallinn. The overall number of journalistic jobs in 2009 was about 1,200.¹¹ During the years of economic recession, the number of full-time journalists decreased to about 900.¹² The Estonian Journalists' Union had 350 members in 2014 (including retired journalists, students and freelancers).

In most democratic media systems, the media-related laws and written codes of ethics are supplemented with unwritten norms and tacit rules of journalistic practice: how journalists relate to their information sources as well as towards their audiences. Hallin and Mancini (2004a) interpret these as elements of 'journalistic culture' within the framework of professionalism, political parallelism and the market.

Hallin and Mancini did not include the former Communist bloc countries in their comparative media analysis. They based their typology on an assumption of relatively stable and slow processes of societal and media development. Their three models do not, therefore, embrace rapidly changing media systems, such as in Estonia. However, combinations of various elements of these models are detectable. Developed formal education, general recognition of the ideology of public service among journalists and the existence of self-regulation mechanisms indicate similarities to the Democratic Corporatist Model. Lack of authority of the self-regulation concept,

⁷ In 2009, newspapers' advertising revenues declined by 41%, and 56% for magazines, compared to 2008 figures. By 2013, advertising revenues for magazines had started to recover slightly, but remain at 53% below the 2008 level. Advertising revenues for newspapers have been continuously shrinking, and by 2013 the decline was 54% compared to 2008 (calculations based on data by TNS Emor).

⁸ Data for nine months. Source: TNS Emor (<http://www.emor.ee>).

⁹ Media consumption data in this article by TNS Emor.

¹⁰ However, much of the small cable networks still operate in analogue mode, and consequently the options for launching all possible digital services have been limited on all platforms (Mapping Digital Media recommendation 9.2.1.2 - Loit and Siibak, 2013).

¹¹ The research project 'Changing Journalism Cultures: A Comparative Perspective' (University of Tartu, 2008-2011) identified 1,193 journalistic jobs in all the media in 2009. Freelancers were not included.

¹² Statistics made for the global journalism studies project 'Worlds of journalism' by the researchers of the University of Tartu.

relatively low levels of professionalism and journalistic autonomy and a weak professional organization relate Estonian media to the Polarized Pluralist Model. Also, a strong element of the Liberal Model is present - the dominance of commercial media that largely determines the nature of the Estonian journalism culture. Hence, in comparison to other European countries, Estonian journalism culture contains a mixture of elements of all three models.

The same tendency – the appearance of a few similarities – emerges in the analysis of the accountability culture. Mazzoleni and Splendore (2014, pp. 168-169) created an index of accountability culture which suggests factors that could measure the sensitivity of journalists to the idea of accountability. In a comparison of 14 countries, Estonia stands quite alone – the journalistic culture is not similar to that of the other former Communist bloc countries (e.g. Poland, Romania) or to Finland, which is closest culturally, linguistically and geographically. For example, Estonian journalists' support for traditional media accountability instruments (MAIs) is the lowest among all 14 countries. Simultaneously, the perception of journalists on the impact of traditional MAIs is the second highest after Finland among the surveyed countries, and comparable to Switzerland. This indicates that the accountability mechanism is visible in Estonia, and journalists keep an eye on the web pages of the two Press Councils irrespective of their critical attitudes towards self-regulation practices. The argument relies on the finding of a much higher sensitivity to audience criticism among Estonian journalists than in any other surveyed countries (74% of Estonian journalists agreed that they were concerned about audience criticism) (Lauk, Harro-Loit and Väliverronen, 2014, p. 94). In summary, according to the in-depth analysis of survey data on the proximity of media accountability cultures in different countries (Mazzoleni and Splendore, 2014, pp. 172-173), Estonia stands apart from Finland and also from other surveyed countries by its attitudes towards MAIs (see also Lauk, 2014). However, the same analysis demonstrates that in the context of bias towards organizational versus professional values, Estonian journalists prioritize professional values (similar to the UK, Switzerland and Finland). It is possible to argue that, with in the small community of Estonian journalists, being 'accountable' is perceived as 'personal capital'. Any complaint upheld by a Press Council is seen as damaging to their image, and at the same time, public pressure to be accountable is palpable.

Established instruments of media accountability

Press councils

The public discussion on the draft media laws from 1989 to 1991¹³ provoked the idea of introducing a self-regulatory mechanism, which resulted in the adoption of the Finnish version of the press council concept (including the name and some organizational terminology). The first Press Council (EPC) was established in 1991 under the umbrella of the publishers' association Eesti Ajalehtede Liit (Estonian Newspaper Association – ENA).¹⁴

During its first six years of existence, the EPC dealt with more than 100 cases and worked out a set of case-based guidelines on how to report certain topics. Based on these guidelines, the media's Code of Conduct was formulated and adopted in 1997. In order to ensure the EPC's impartiality and to weaken the structural connection with the publishers' association, the EPC was reorganized in 1997 into a non-profit organization that included representatives from both media and lay organizations who delegated their representatives to the body for examining complaints (Lauk, 2009, p. 75).

Along with growing market competition, a conceptual tension emerged in interpreting the functions of the Press Council: Is the Press Council a guardian of the freedom of the press (i.e. protecting institutional right of expression) or is its primary function to safeguard individuals' right of free expression? Should the Press Council strive to develop a dialogue between the media and the public on the quality of journalism or just deal with the complaints?

¹³ Four drafts of media-targeted laws were presented for public discussion, but none of them were ever adopted.

¹⁴ <http://www.eall.ee>

The reorganized EPC functioned for a while as the only institution critical towards the media and articulated several important ethical issues, both by including them in the explanations of the adjudications and by issuing special statements. The critical discourse of the EPC was increasingly disliked among media leaders, and resistance to the EPC gradually emerged. Although the Rules of Procedure of the EPC obliged the news media to publish or broadcast the full texts of its adjudications within seven days, the newspapers often ignored this commitment. As a result of a conceptual conflict between the EPC and the Estonian Newspaper Association, the latter withdrew its membership by late 2001, and the broadcasters (both private and public) followed suit (Lauk, 2008, p. 204). In 2002, the ENA established another Press Council to deal with complaints concerning their member publications. Some Internet news portals, commercial TV channels and ERR also recognize this Press Council (Lauk, 2009, p. 73).

In 2014, Prime Minister Taavi Rõivas forced Tallinna TV (TTV) to join the ENA Press Council. Tallinna TV is run by the Municipality of the City of Tallinn and holds the licence of a national TV station. Politicians and the media have accused TTV of populist political propaganda in favour of the Centrist Party, which forms the majority in the city council. The Prime Minister ruled that journalists of TTV cannot take part in the government's press conferences since TTV is 'biased' in its coverages (Helme, 2014). Later he relented and consented to allow TTV to attend the press conferences if TTV "would subject itself to journalistic ethics", meaning that TTV should join the ENA Press Council (Järvekülg, 2014).

At the request of the ENA, none of the media connected with the ENA Press Council publish the EPC's adjudications or any other materials coming from the EPC. All ENA member newspapers advise the public to send their complaints to the ENA Press Council, and do not mention the possibility of asking for an alternative opinion from the EPC. In response to enquiries from the EPC, newspapers mostly claim that they recognize only the ENA Press Council and ignore the adjudications of the EPC (Lauk, 2009, p. 73). In this way, the leading media hamper the EPC's critical voice.

The efficiency and ability of a press council to act impartially depend upon its independence from the media industry. The composition of the ENA Press Council is heavily weighted in favour of the media industry. The first chairman of the ENA Press Council was the former managing director of the Estonian Newspaper Association. The council predominantly consists of editors-in-chief (four to five out of ten members), including the chairperson. The lay members are individually invited by the ENA and are not delegated by their organizations.

The original EPC, where six members out of nine represent public NGOs and three are representatives of the Journalists' Union, continues to adjudicate complaints. The EPC also provides expert opinion and evaluates the quality of media content and performance. The EPC publishes its adjudications on its website.¹⁵ Although the EPC has no procedural measures to be accepted by all media as a self-regulatory body, it has earned credibility with a proficient analytical approach. Occasionally, the state authorities have requested its expert opinion (Lauk, 2009).

The ENA Press Council deals only with complaints concerning materials directly affecting the complainant, whereas the EPC accepts complaints irrespective of whether the plaintiff is the person involved or not. The EPC may also initiate cases on matters of principle importance, releases statements on important ethical issues and gives advice in complicated cases. Neither press council deals with the cases that are involved in legal actions. The time limit of the complaints with which the ENA Press Council deals is three months; with EPC, it is six months.

During 2007-2013, the EPC received 224 complaints and the ENA Press Council 337 (see Table 9.1). In 2009, for the first time since 1991, the total number of complaints exceeded 100. Some people file their complaints to both bodies, and occasionally they get different decisions. Statistics for the EPC are available from 2003 onwards, and for the ENA Press Council, from 2007 onwards (sources: <http://www.asn.org.ee/statistika.html>; <http://www.eall.ee/pressinoukogu/statistika.html>).

¹⁵ <http://www.asn.org.ee>

The majority of adjudications concern newspapers. The overall proportion of upheld cases is high (2011: 56%; 2012: 54%; 2013: 49% of adjudicated cases). The respective proportions in Finland, for example, have been 29-30% throughout the existence of the Finnish press council (the Council for Mass Media) (Lauk, 2014, p. 187).

These statistics simultaneously reflect two phenomena: the low professional culture of Estonian journalism on the one hand, and the growing awareness of journalists and the public about the potential of media self-regulation on the other. While the EPC received about 100 complaints over the first six years of its existence, within the past six years the two press councils together have received on average about 80 complaints annually (ibid.). As there are no specific rules (unlike in Finland) on how to publicize the upheld decisions of the Press Council, the news media often act rather arbitrarily, publishing the decisions in the most unnoticeable way possible (ibid., p. 189).

Table 9.1 Number of cases handled by the Estonian press councils

	EPC			ENA PC		
	Complaints	Adjudications	Upheld cases	Complaints	Adjudications	Upheld cases
2003	25	23	9	–	–	–
2004	17	16	7	–	–	–
2005	16	13	6	–	–	–
2006	19	8	3	–	–	–
2007	21	19	10	24	21	7
2008	21	16	10	45	34	17
2009	48	27	14	54	31	21
2010	41	17	7	42	34	25
2011	40	33	20	67	61	33
2012	23	12	7	49	38	20
2013	30	20	8	56	52	27

Codes of ethics

The Code of Ethics for the Estonian Press (the Code)¹⁶ was accepted by all Estonian media organizations in 1997, and both press councils base their adjudications on the same code. An independent code was adopted by the business daily *Äripäev* in 1993 and has been amended twice.

The general ideology of the Code is biased towards a teleological approach. It weighs the ethical behaviour of journalists from the viewpoint of the importance of the information to the public interest. The Code allows journalists to use ethically questionable means for getting information in cases “where the public has a right to know information that cannot be obtained in an honest way” (Code, art. 3. 7). In the context of this particular article, the Code has been often criticized as it leaves the door open to discussions about whether or not journalists can really behave in a dishonest way. Another particularity of the Estonian Code is to lay the responsibility for the quality of journalism both on journalists and the media organizations, and to particularly emphasize the responsibility of news organizations for publishing truthful and accurate information (Code, art. 1.4).

The Code has not been amended since its adoption, although since about 2000, the issue of updating and amending the Estonian Code has surfaced now and again. The same institutions that adopted the Code in 1997 and formed the supporting organization of the EPC (Ajakirjanike Liit (Union of Journalists), the ENA, broadcasters and some NGOs) should accept the amendments. The problem is, however, that the ENA and its Press Council have ignored the existence of the EPC since 2002, and during the ensuing decade it has been impossible to start any negotiations. However, in 2010, the ENA unilaterally changed the wording of the Article 3.7, replacing the

¹⁶ http://www.asn.org.ee/english/code_of_ethics.html

word 'honest' with 'public', and thus changing the meaning of the article.¹⁷ Other than the change in wording, there was no explanation, no terms of reference, no press releases and no news stories about the occasion. Nobody was informed, including the EPC, who uses the same code in its work. Neither was any information provided to journalists, journalism teachers or students. Only when the EPC made a special request was scant information provided. If making amendments in a legitimate way, the ENA should involve at least all the other parties who adopted the original Code (Lauk, 2014, p. 191). A conclusion that emerges is that the ENA and its Press Council do not regard the Code as significant enough to be publicly debated and try to avoid issues that may question their authority in interpreting journalistic ethics. Also, according to a MediaACT survey,¹⁸ Estonian journalists do not much appreciate their code of ethics, but consider internal guidelines of their media organizations the primary guides of their everyday work. 82% of respondents evaluated these guidelines highest, while 74% emphasized the code of ethics. Research also reveals that the majority of journalists who do not regard ethical issues and the Code important have no journalistic education (Kangur, 2009; Ahonen, 2010).

Ombudsman

Estonian newspapers have never had ombudsmen, nor does a general nationwide ombudsman operate in Estonia. The Estonian National Broadcasting Act (2007) did, however, institute the post of an Ethical Advisor for the Estonian National Broadcasting Company. The law provides the Advisor with independence; broadcasting management does not have any power over the Advisor, who is directly accountable to the Broadcasting Council. The Ethical Advisor deals with complaints from the listeners and viewers, monitors the programmes and makes appropriate proposals for resolving problems. The incumbent advisor does not always act with full transparency for the general public, but often glosses over problems and criticizes the rest of the media rather than bringing any acute ethical issues of public broadcasting to the public agenda. For a period of time, the Ethical Advisor also sat on the ENA Press Council.

Media journalism

Media journalism as a form and discourse of media self-reflection is practically non-existent in Estonia. For example, during 2003-2007, the three leading newspapers (*Eesti Päevaleht*, *Postimees* and *Eesti Ekspress*) published a total of 40 articles containing some media-critical viewpoints. The authors mainly represented three interest groups: media scholars and teachers (15 articles), journalists (10) and politicians (5) (Tonka, 2007). In 2008, the same newspapers, together with the cultural weekly *Sirp*, published 41 media-critical articles (Raidla, 2009). The range of issues discussed remained rather narrow: the influence of commercialization on journalistic content, infotainment, coverage of scandals, issues of balanced and neutral reporting and public interest versus profit interests. Many important critical topics, such as media usage of power, freedom of expression, ethics of reporting or use of anonymous sources were completely absent from the debate.

The context of the current political and journalism culture in Estonia does not favour the development of media-critical discussion, as the owners, editors-in-chief and other media leaders are highly allergic to any criticism addressing their outlets. Journalists are overly cautious in publicly expressing critical views about the quality of journalism, as there seems to be a silent agreement of not criticizing colleagues' work. This has to do with the small size of the journalistic population, where everyone knows everyone else, personally or indirectly. The Journalists' Union's initiative to introduce an online media-critical outlet, *Klopper*, failed in the early 2000s after a couple of years of irregular appearance, because there were very few journalists who dared to publicly criticize their working environment.

¹⁷ In the English translation the wording was not amended.

¹⁸ Online survey, conducted in 2011-2012 by the EU-funded research project "Media Accountability and Transparency in Europe" (MediaACT) among journalists of twelve European countries (Austria, Estonia, Finland, Germany, Italy, the Netherlands, Poland, Romania, Spain, Switzerland) and two Arab countries Jordan and Tunisia; total 1,762 respondents. The project's homepage: <http://www.mediaact.eu>

While the media in Estonia take the right to criticize everything and everybody, they remain opaque and inaccessible for criticism directed at themselves, and any question of the responsible use of this right is carefully avoided. Critical voices from outside the media that point to violations of ethical principles of reporting, power abuse by the media or simply bad journalism are often accused of attempting to restrict the freedom of the press or even to establish censorship. This argument easily finds public support and understanding. The memories of past censorship and the all-penetrating control by the authorities are still fresh and painful among both journalists and the public.

Some media-critical material, however, appears in niche publications, such as *Õpetajate Leht* (The Teachers' Paper) and the cultural weekly *Sirp* (Sickle), which receive state subsidies and are less dependent on the market. Media-critical articles written mainly by media scholars and students are also published on the website of the EPC.

Innovative instruments of media accountability

Are blogs new instruments of accountability that enable individual journalists to highlight their personal moral sensitivity and disclose their information-processing practices to the public? Do Estonian journalists have enough incentives and autonomy to use weblogs as an opportunity to explain their professional decisions or even openly confront editorial opinion? The findings of an analysis based on eleven interviews with Estonian journalists and editors (Harro-Loit, Lang and Himma-Kadakas, 2012) demonstrates that personal blogs of professional journalists do not function as accountability instruments. Some blogs on media quality and ethics have occasionally appeared and soon stagnated (e.g. the latest entry on Priit Hõbemägi's blog on 'media-ethics-criticism-analysis' dates back to July 2008). Two to three journalists, however, systematically evaluate journalistic quality in their personal blogs, but have only a marginal audience and no self-regulative effect. There is only one widely known blog (*Memokraat*¹⁹ that, among other cultural and societal issues, regularly publishes journalism critique. A survey of 226 reporters and editors working in Estonian daily newspapers showed that only five kept a public blog focused on media analysis. Micro-blogs (Twitter) open to the public were used by 57 respondents, while 159 (more than 70%) had a social network account (Facebook), which also functions as a microblog, commenting space and accountability instrument (Laurson, 2011).

Transparency of the news-making process and the reluctance of media organizations to open up this process to the public seems to be a central dilemma for the editors-in-chief. While some degree of critical discussion is tolerated in the newsrooms, it is not communicated to the public, but regarded as confidential. This demonstrates that a dialogic model of accountability is not common in the Estonian media.

Self-regulation in online media is gradually emerging. This is mainly related to the practice of using audience commentaries as feedback to the news and articles in online newspapers and news portals. The media organizations initially distanced themselves from this 'non-journalistic' content and denied any responsibility for the anonymous comments published on their pages. Only after the *Leedo v. Delfi* case (Supreme Court case 3-2-1-43-09), where the news portal *Delfi* was sued for moral damage and had to pay 5,000 EEK (about €320) to a businessman, did online media take measures to avoid indecent and offensive comments. The notice-and-take-down policy relies on readers to report unacceptable comments, which consequently have to be taken down. However, this measure does not always work effectively, especially in cases of a large influx of comments.

¹⁹ <http://memokraat.ee>

Other media accountability instruments

According to the aforementioned MediaACT survey, almost 70% of Estonian respondents stated that their professional training included journalism ethics, and nearly 60% declared having a university education (Radu and Popa, 2014, p. 258). The survey results also indicated that courses in media ethics increase the awareness of journalists about both traditional and new MAIs (ibid., p. 261). Our experience of teaching media ethics at the University of Tartu supports this result. Courses on journalism ethics and information law have been a part of journalism curricula since the early 1990s. The didactics includes the training of value clarification and case analyses based on discourse analysis (e.g. students are trained to distinguish between different parties in morally controversial cases). The aim is to raise both students' sensitivity towards possible value (or legal) conflicts in various situations, as well as their ability to see a variety of solutions and to reason their principles of behaviour. International comparisons are used for developing the ability to critically analyze existing accountability instruments in the student's home country.

In some newspapers, such as the business paper *Äripäev*, the editorial guidelines support accountability. It is not known, however, how the in-house rules are implemented in daily practice. A study on journalists' autonomy (Niinepuu, 2012) shows that normative ethics and journalists' individual autonomy are interpreted differently in different media organizations.

Conclusion

The Estonian media experienced drastic structural changes during the 1990s. By the end of the decade, the market began to stabilize and foreign investments arrived. Certain expectations emerged that foreign owners' experience and know-how would be a good basis for the further development of journalistic professionalism and democratic media culture (Balčytienė and Lauk, 2005, p. 100), but this was not the case. Furthermore, foreign investments created a serious dilemma for the local managers and media elite: they should have simultaneously been able to ensure profit for the investors and develop the quality of national journalism. In fact, aggressive commercial policies were pursued at the expense of journalistic standards (Lauk, 2009, p. 78). Along with commercialization, Estonian journalism has largely lost its traditional cultural and integrating roles. On the other hand, investigative journalism is gradually developing, which was completely unthinkable under the Soviet occupation.

The small Estonian media market can give jobs to a limited number of journalists. In some regions, only one employer operates, while the majority of jobs are concentrated in the capital, Tallinn. Therefore, journalists more often than not prioritize loyalty to the employer rather than to professional ideals. Hence, journalists have less freedom of choice and autonomy than their news organizations.

By the level of media literacy and communication competencies of the public, Estonia stands at the forefront among the Baltic countries, since the national curriculum includes elements of media education and the media educators have been active for about a decade (Ugur and Harro-Loit, 2010). In 2010, the activity of Eesti Meediakoolitajate Liit (Estonian Association of Media Educators) was revived. Nevertheless, research indicates that even the generation who has grown up in the 'Internetized' environment tends to behave as passive consumers rather than active content creators and commentators (Runnel, Pruulmann-Vengerfeldt and Reinsalu, 2008).

Civic organizations rarely raise questions on media quality. Lastekaitse Liit (Union of Children's Welfare) is a positive exception in this field, having initiated several debates and conferences and produced complaints to the press councils.

As the Estonian case demonstrates, the ideally favourable conditions for the media industry - unrestricted freedom of the press and an oligopolistic non-regulated market- do not automatically promote media accountability and self-regulation. Legislation and court practice do not yet support media accountability. Too often journalists have to choose between loyalty to the owners and ethical principles of the profession. Freedom of the press has become freedom for the press

and enables the media organizations to abuse freedom of expression by blocking certain uncomfortable voices.

Effective self-regulation needs an environment where media organizations are motivated to discuss media quality and ethical problems openly and publicly to avoid unethical practices. In Estonia, these conditions are still insufficient. Although a Code of Ethics and press councils exist, they are easily ignored by both news organizations and journalists. The only self-regulation body that is recognized by the media is under the control of the media owners and serves their interests. Media-critical debates occur when politicians publicly refer to the poor performance of the media, especially the press. The reaction of the media is usually allergic and defensive: those who criticize are accused of being ignorant, for wishing to re-establish censorship or for being demagogic, etc. In the current circumstances, where civic control over the media is nearly non-existent and the legislative practices do not encourage news organizations to be strict in following ethical rules, MAIs have little effect.

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Entry 7

THE CASE OF ESTONIA

by

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The case of Estonia

Urmas Loit and Halliki Harro-Loit

1. Introduction

Estonia, a small country on the Baltic Sea, has spent the past 20 years transitioning from a colonial territory within the USSR into an independent democracy; it became a Member State of the European Union in 2004. Five national and seven regional daily newspapers serve the population, which is 1.36 million. A plethora of weekly papers and magazines, six larger domestic television channels and nearly 30 radio stations are available within the 45,000 sq kms of Estonia.

The national structure of the country is comprised of two relatively detached communities: ethnic Estonians (927,000) and a Russian-speaking community (appr. 400,000), which predominantly consists of settlers from the Soviet era of various ethnical background. These two communities can be characterised by their distinctly separate media consumption patterns. Traditionally, ethnical Estonians have been avid readers, listeners and viewers. Russian-speakers tend to prefer television and watch Russia's channels. Thus the Russian language newspaper market, competing both with Russia's media and Estonian news products, is shrinking despite of a slight increase in scanty readership.

This country report examines the media policies in Estonia since regaining of the country's independence in 1991. The Estonian media market is small and fragmented by media consumers' native language. The number of Estonian-speakers is limited to about a million. Estonia has witnessed rapid development towards information society and a very liberal media policy. Therefore the analysis of Estonian media policy provides a case study concerning the problems, possibilities and paradoxes occurring in case of limited resources, a well-developed environment of information and communication technologies (hereafter: ICT) and a liberal regulatory approach to the media market.

The next section of this study examines the structure of the media market. The analysis highlights the specific situation concerning competition between traditional media channels, oligopoly and content diversity. Today competition is remarkable between the two national mixed type quality dailies: *Postimees* (owned by the Norway's Schibsted) and *Eesti Päevaleht* (a trade mark in the portfolio of the Estonia's Ekspress Group) are the newspapers with very small product differentiation. Tabloid *Õhtuleht* enjoys a sole position on the daily tabloid market, being a joint venture of two competing newspaper publishers.

Newspapers also keep producing news online. *Delfi* is the only converged online news-producing portal, which is owned by the Ekspress Group, and which maintains a wide audience in both language groups and provides visitors a popular venue for commenting on news items. Also television channels compete for audience, while the digital turn has revoked fragmentation. Radio maintains stability in listenership. Baltic News Service (BNS) is the only news agency in Estonia, and it is operating across the Baltics.

Estonian ICT development started in the late 1990s. In 1998 the Principles of Estonian Information Policy were adopted by the Estonian government. Now about 60% of the population uses Internet at least once a week.

The issue of media literacy and digital literacy are actively debated in Estonia. The Internet usage is especially high among young people, reaching 99.9 % of 11-18 year old pupils. It is partly due to the activity of the Estonian government that brought computers and internet connection to Estonian schools since 1997 (The Tiger Leap project). National curriculum includes several topics that could support media education and communicative skills but hereby the teacher education is lagging behind.

While the resources at such a small media market are limited and original news production occurs to be an expensive process, the future of professional journalism is one focal question in media policy concerning the accessibility of impartial and trustful information. On the one hand Estonia still maintains journalism curriculum at the university. On the other hand the professional community of journalists (slightly over 1,000) is loosely organised, rather loyal to their employer than to professional ideals.

The third part of this report examines the media regulatory framework and the implementation of laws, administrative acts as well as co- and self-regulatory measures. Since the beginning of the transition period (after the Soviet rule) in the beginning of the 1990s Estonian media policy has been very liberal and market-oriented: media organisations have enjoyed full freedom of expression. Hence it is difficult in Estonia to re-establish one's rights and reputation in the court when damaged by the media. Estonian courts try to avoid judging moral damages, intimating that to measure a moral damage in financial terms is rather complicated. Only substantial penalties for the moral damages would force the media owners to pay more attention to accurate and fair performance. Only since 2009 courts have started to argue more about the liability of professional content providers in case an individual has suffered severely. In addition to the courts the role of the Ministry of Culture and Parliament is discussed.

The legal protection of the rights of individuals is usually spread among different laws. Mostly these are defamation laws and the protection of privacy. In Estonia by the end of the 1990s the laws that affect individual rights, especially the right for the protection of one's honour, were in process of renewal. The protection of honour and privacy is now regulated by the recent Law of Obligations Act (passed in October 2001, entered into force on 1 January 2002). Regulation of public and private information is well elaborated in Estonia. The Public Information Act (first passed in 2000) provides access to the administrative documents, while the Personal Data Protection Act (first passed in 1996) encompasses citizens' informational self-determination.

This part of the article also offers analysis on actors who influence the media policy. Implementing a liberal media policy means that the ownership is predominantly controlled by the market (owners) and that the role of the state is restricted to minimally supervising compliance with the formal conditions of the broadcasting licence and general legislative rules for the programming output, even though the cross ownership has also been inconsistently ruled out by the corresponding law.

The aim of the fourth part is to provide a critical analysis of the Estonian media policy in the context of European media and communication policy and how it feeds the democratic processes. The economic pressure springing from the interests of media ventures could be counterbalanced by the ideology of professional

independence, but in Estonia the professional culture seems to be too weak to resist such pressure in case media organisation has its very strong content-independence (wall) policy.

The authors have analysed various statistical data retrievable from interactive databases on the Internet processed upon specific criteria and non-public databases available for pay, and have creatively processed other data publicly available.

2. The media landscape in Estonia

The media landscape in Estonia is characterised by large variety of media outlets and channels, despite the littleness of the potential audience and its segmentation supremely according to the spoken language. However, the variety has been larger in the mid 1990s when the foreign capital had yet not flown in and there was more enthusiasm among the media creators based on the recent liberation from the Soviet regime and possibilities deriving from exercising the freedom of expression.

The new innovative media emerges rapidly, too, as Estonia has been in the forefront with its e-solutions (e-banking, e-parking, e-government, e-prescriptions, etc). In the wake waters also the social media develops, although creating a different paradigm compared to the mainstream media system.

2.1 The media market

Print media

The press has fully moved away from state control and is now an independently run sector. Newspaper privatisation took place at the beginning of the 1990s on a case-by-case basis, with the government agreeing that it should no longer be involved in newspaper publishing.

The newspaper sector, like the rest of media, is characterised by heavy concentration of ownership. However, the market has stabilised since major mergers in 1998. Two major publishing groups dominate the national market: Postimees Group (part of Eesti Meedia) and Ekspress Group. In 1998, two Scandinavian media companies, Sweden's Marieberg and Norway's Schibsted, made important acquisitions in Estonia that further strengthened media concentration. Marieberg sold its possessions back to Estonian owners in 2001 – Ekspress Group – which now is a public stock company with the majority share in the hands of a local businessman. Schibsted is involved in all types of media (print, television, radio), while Ekspress Group has been focusing on print (second biggest quality daily *Eesti Päevaleht*, weeklies *Eesti Ekspress* and *Maaleht*) and Internet (the largest internet news portal *Delfi*).

Mainstream newspapers in business in 2009 were as follows: five national dailies (four in Estonian, one in Russian), eight weeklies (five in Estonian, three in Russian) and 23 independent regional papers (18 in Estonian, five in Russian). In addition, several municipalities publish their messengers (news sheets) on weekly or monthly bases; many of them craft these according to journalistic convention. The overall estimated number of newspaper titles in Estonia is 151, including newspaper-

like publications and advertising papers.¹ Circulations figures for all papers have substantially decreased. The combined daily circulation of all the member papers of the Estonian Newspaper Association in 1992 was 831,400. In 2005 it was 543,600 whilst in 2009 491,300. The circulation of the two largest national daily newspapers remains under 60,000 of each (*Postimees*, *Õhtuleht*). The circulation of the largest weeklies (*Maaleht*, *Eesti Ekspress*) is approximately 30,000 to 40,000. The circulation of regional (daily) papers is between 3,000 and 14,000. The circulations of Russian-language weeklies (dailies have ceased to appear, except for *Postimees* in Russian with circulation of 9,800) reach 15,000.

Table 2.1: Major newspapers by ownership, circulation and readership

	Newspaper	Ownership	Circulation* (Aug 2010)	Readership (Q1, 2010)
<i>Dailies</i>	Postimees	Eesti Meedia (Schibsted)	56,100	200,000
	Eesti Päevaleht	Ekspress Group	29,800	106,000
	Äripäev (business)	Bonnier	12,200	42,000
<i>Mixed type quality papers</i>	Postimees (in Russian)	Eesti Meedia (Schibsted)	9,800	59,000
<i>Tabloid</i>	Õhtuleht	Eesti Meedia (Schibsted) 50% Ekspress Group 50%	55,100	178,000
Weeklies	Eesti Ekspress	Ekspress Group	32,000	93,000
	Maaleht (rural)	Ekspress Group	42,600	125,000
	Den za dnyom (in Russian)	Eesti Meedia (Schibsted)	13,000	44,000
	MK-Estonia (in Russian)	LAT individual (Baltic Media Alliance)	10,000	49,000
	Moskovskiy Komsomolec			
	Delovye vedomosti (business, RU)	Bonnier	4,100	17,000

Circulations of March 2010 were slightly higher than those of August 2010.

Data about circulations by Estonian Newspaper Association. Data about readership by TNS EMOR. Data about ownership by Central Commercial Register and from public sources.

¹ National Library of Estonia, Statistics 2009.

Table 2.1: Major newspapers by ownership, circulation and readership (continues)

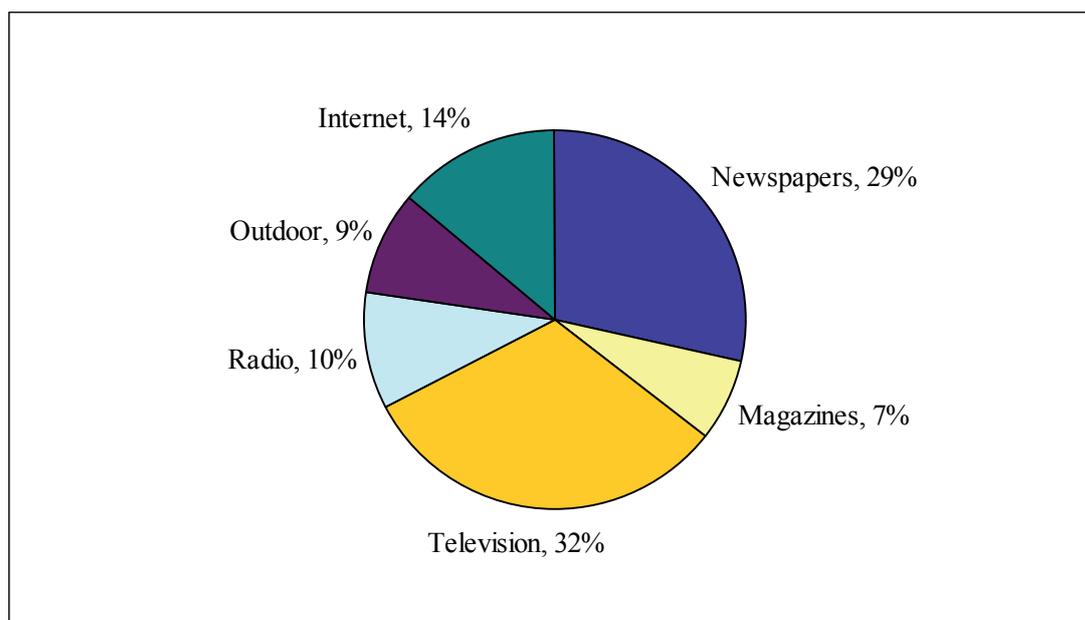
	Newspaper	Ownership	Circulation* (Aug 2010)	Readership (Q1, 2010)
Regional and local papers	Pärnu Postimees	Eesti Meedia (Schibsted) 66% Pressinvest (EST individuals)	13,700	32,000
	Sakala	Eesti Meedia (Schibsted) 66% Pressinvest (EST individuals)	9,400	30,000
	Meie Maa	SWE individual 99.97% EST individuals 0.03%	7,300	15,000
	Põhjarannik / Severnoye Poberezhye	Luterma Ltd. (EST) 19.4% Journalists 80.6%	7,300	EST 16,000 RUS 13,000
	Virumaa Teataja	Eesti Meedia (Schibsted) 66% Pressinvest (EST individuals)	7,300	25,000
	Võrumaa Teataja	Individuals (EST)	4,500	20,000
	Saarte Hääl (former Oma Saar)	An individual (EST)	4,500	12,000
	Lääne Elu	Individuals (EST)	4,100	10,000
	Valgamaalane	Eesti Meedia (Schibsted) 66% Pressinvest (EST individuals)	3,000	12,000
	Nädaline	Individuals (EST) 65% A venture (EST) 35%	3,100	9,000
Free papers (weekly)	Viru Prospekt (in Russian)	Individuals (EST residents)	5,300	NA
	Tallinna Linnaleht	Eesti Meedia (Schibsted) 50% Ekspress Group 50%	27,500	52,000
	Tallinna Linnaleht (in Russian)	Eesti Meedia (Schibsted) 50% Ekspress Group 50%	22,500	54,000
	Tartu Ekspress	EST ventures	20,000	NA

Circulations of March 2010 were slightly higher than those of August 2010.

Data about circulations by Estonian Newspaper Association. Data about readership by TNS EMOR. Data about ownership by Central Commercial Register and from public sources.

The newspaper sector has gradually lost its majority share in total advertising expenditure to television. In 2004 the newspapers' advertising share was 44.5% compared to televisions' 25.6%. By the first quarter of 2010 the proportions were equally 31% out of the total expenditure. In the second quarter of 2010 proportions turned into 32:29 percent in favour of the television industry. Still the overall print sector share exceeds the television share by four percentage points.

Figure 2.1: Advertising expenditure breakdown, Q2 2010



Data of TNS EMOR.

The print media continues to enjoy a 0% value added tax for subscriptions although single copy sales are taxed with the regular rate of 20% (up to July 2009, the rate was 18%).

Family, home and lifestyle magazines lead the magazine market; they are the most commercially oriented magazines. Publications for youth and children, comics, travel, vocation and sports are considered by the research carried out by the University of Tartu (2005) to be partially commercially oriented. The rest (including the popular science, professional, trade and hobby magazines) are considered socially oriented magazines and their circulations are low. The number of magazine titles in Estonia is 328.² According to a more stringent classification by the researchers of the University of Tartu this number might be up to 150.³

The number of popular magazines decreased considerably in 1998 when several magazines of the same type merged during a merger of two competing publishers. Also, in 2008 and 2009 a number of magazines have been either shut

² National Library of Estonia, Statistics 2009.

³ As this group considers only about one in seven periodical publications to be magazines. See P. Vihalemm (ed.), *Meediasüsteem ja meediakasutus Eestis 1965-2004* [Media system and media usage in Estonia in 1965-2004] (2004).

down or merged because of the slack economic period, and a new-coming publisher (Kalev Meedia, later renamed Luterma) seized to exist.

Radio

The Estonian audience can listen to four (plus one local in Tallinn) public and 25 private radio programmes, provided by one public service broadcaster (*Rahvusringhääling*, ERR) as well as 15 private broadcasters. Among the biggest commercial radio broadcasters are the Sky Media Group and the Trio Radio Group. Both operate six programmes, most of them distributed nationally. The two broadcasters combine to comprise about two thirds of the total radio advertising market. The third biggest player, part of the international MTG group, The Mediainvest Holding Ltd., operates two music radio programmes.

Programmes of the public radio air across nation-wide coverage areas delineated by law while private stations are limited to semi-national coverage areas provided by “regional” licences.

Along with the public service broadcaster, Radio *Kuku* is the only commercial nationwide talk-radio programme (part of Trio Radio Group). Also the two Christian radio stations – *Pereraadio* and *Raadio7* – provide talk programmes. The locally oriented radios (eight in total) do have some talk features in their formats. All radio stations broadcast terrestrially; most of them have a parallel stream running on the Internet. Digital radio has not been implemented and probably shall not be in the near future, as it provides comparatively few cost-effective advantages (especially in regard to sound quality) compared to analogue transmission.

Television

The public service broadcaster ERR runs two channels. *Eesti Televisioon* (ETV) airs general-audience programming in Estonian. ETV2, initially launched as a digital channel in August 2008, introduced specialised programming the next season after the digital switchover. It provides programmes for children, documentaries and reruns of archived audiovisual works. Although it predominantly broadcasts in Estonian, it also includes a daily newscast and some feature programmes in Russian as well as Estonian programmes with Russian subtitles.

Estonian viewers can watch several private national TV channels, the number of which has somewhat increased during the digital transition, which intensely started in 2008. Kanal 2 and TV3, which continued to broadcast also in analogue mode until the final switchover, still dominate on the television market along with ERR’s ETV1. Still digitally launched fragmentation is also taking place and the newcoming channels (TV 6, Kanal 11 and others) are increasing their daily shares.

Scandinavian operators dominate the private television sector. Norway’s Schibsted owns Kanal 2 (which also runs Kanal 11) and Sweden’s MTG Group owns TV3 (which also runs TV 6, lately turned into a pay-TV). Other channels distribute via cable networks (Alo TV, Telekanal Seitse, TV 14, TVN, Orsent and some other, locally distributed channels in cable) and have marginal daily shares.

Table 2.2: Daily share (%) of television channels, June 2009 and June 2010

Channel	June 2009	June 2010
ETV	13.5	15.8
Kanal 2	19.4	15.6
TV 3	14.4	11.5
Kanal 11	1.9	2.6
TV 6	1.7	2.4
ETV2	1.2	2.6
Seitse	0.2	0.3
PBK*	12.1	10.5
RTR Planeta*	3.5	3.9
3+*	3.0	3.0
Ren TV*	2.4	2.5
Other	23.3	27.0
Video	2.4	2.2

PBK – Pervyi Baltiskiy Kanal, the Baltic version of Russia’s Pervyi Kanal.

* - Russian language programmes mostly originated from Russia.

Processed data of TNS EMOR.

Estonians prefer domestic programmes while Russian speakers like those broadcasted from Russia. Channels from the Russian Federation (as well as other pan-European satellite channels) can be watched on cable networks. Most urban areas have been covered by cable television networks, which are being remodelled into digital networks within broadband data communication service packages.

The public service broadcaster is fully financed by allocations from the state budget, while the private broadcasters rely on advertising revenues and other business earnings. Since 2002, as a rule, the public television does not have advertising as part of programming and a source of income. The same applies for the public radio as of 2005. By the authority of the Broadcasting Council the public broadcaster may include those adverts in its programming which go together with the broadcasting rights of some major events (sports, song festivals, etc). Private broadcasters claim that ERR overuses this opportunity, allowing the sports federations act as advertising agencies for ERR.⁴ ERR has rejected the accusations, stating that ERR aired only 320 minutes of advertising in 2009 (on both channels), which is less than 0.1% of the annual advertising volume of private TV channels.⁵ Up to the end of the analogue era the large private television organisations (Kanal 2, TV 3) paid for their licences annually to the state budget. When introducing the digital mode the payment was waived and that earned criticism on behalf of newspaper publishers.

⁴ See U. Oru, “Avalik-õiguslikud kõrvalhüpped” [Public escapade], Postimees, 5/01/2010, available at: <http://www.postimees.ee/?id=207804> (last visited on 6/10/2010).

⁵ See A. Jõesaar, “Avalik-õiguslik meediamajandus” [Public media economy], Sirp, 19/02/2010, available at: http://www.sirp.ee/index.php?option=com_content&view=article&id=10226:avalik-õiguslik-meediamajandus&catid=8:meedia&Itemid=11&issue=3287 (last visited 6.10/2010).

The digital switchover in television took place as of 1 July 2010, almost two years earlier than initially planned by the government's Concept of Digital Television, adopted in 2004.⁶ The switch-off of the analogue transmission mode involved the shutdown of the only local terrestrial television station – Alo TV – as there is no local television as such in the digital era (Alo TV is now distributed by some cable networks). From that point the television players will only be either “regional” or “national” and need to be customers of the broadcasting transmission center Levira, which exclusively runs all transmission facilities over the country. The enlarged technical options (increase in available channels for transmission) have still not produced many new programmes, as the human and financial resources for television broadcasting are limited. Pay-TV's are now also terrestrially distributed.

Standing in autumn, 2010, digital television appears in the form of satellite broadcasting (Viasat), terrestrial broadcasting and also cable. The latter to a large extent is still in analogue mode, but under development to fully digital encoding. The biggest telecommunication operator, Elion, distributes the digital TV signal in the form of IPTV. The additional digital services along with streamed programming have not been yet introduced in the Estonian television market, except for some services by Elion in IPTV (e.g. pay-reruns of certain programmes). Some initial steps have been made to provide a limited selection of TV clips for mobile phones.

Media online

The rate of computerisation and Internet penetration in Estonia is comparatively high. 68% of all households have an Internet connection. 97% of offices are computerised and 99% of those have Internet connections. Around 74% of the total population of age 16-74 uses the Internet.⁷

The Internet usage is especially high among young people, reaching 99.9% of 11-18 year old pupils. This is partly due to the decision of the Estonian government to introduce computers and Internet connection to Estonian schools in 1997 (The Tiger Leap project). National curriculum includes several topics which could support media education and communicative skills. However, at this point the teachers' education is lagging behind.⁸

Web portals started as advanced search engines and www-catalogues in the late 1990s which by the turn of the century developed into several types of portals, including the news portals. The biggest, thriving and influential news portal is *Delfi.ee*, currently owned by the Express Group. This portal produces along with references to other media sources some original content (including video and podcast) with the emphasis on headlines and the opportunity to comment on the news. Comment sections have invoked several debates and court cases about the liability of the media owner for the comments left by the visitors. *Delfi.ee* runs also a portal in the Russian language. The company has subsidiaries also in Latvia, Lithuania, Russia, and Ukraine.

⁶ See U. Loit., “Estonia” in Open Society Institute (ed.), *Television across Europe: regulation, policy and independence, Volume 1* (2005) 612, at pp. 612-613.

⁷ Data by Statistics Estonia 2010.

⁸ See H. Harro-Loit and K. Ugur, “Media education as part of higher education curricula”, 47 *Informacijos mokslai/ Information Sciences* (2008) 78.

Most Estonian-language newspapers have online versions since the middle of 1990s. The bigger newspapers presently employ separate staff for their paper and online editions. Also, the contents of the two versions are, to great extent, separated. Online versions of the newspapers can mostly be accessed for free; the attempts to charge the readers a full subscription fee have as yet failed. In 2009, *Postimees*, *Eesti Päevaleht* and some other newspapers declared that they would limit the availability of the stories from the paper version online with the intention to charge for using the archive and the paper-version online. By fall, 2010 *Postimees* and *Eesti Ekspress* have launched that kind of system, however charging symbolic amounts per some articles (€ 0.06) or per day (€ 0.32).

The public service broadcaster, ERR, runs an online news portal that often serves as an agency source for radio stations, as does the Baltic News Service and dailies' online versions. The public service broadcaster, as well as Kanal 2 and TV 3, makes available its television programmes on demand.

Table 2.3: Top visited news portals, week 38/2010

News Portal	Visitors per week	Specification
Delfi	701204	
Postimees Online	647685	
Õhtuleht	319236	tabloid daily online
E24	241589	Postimees's economic news
Äripäev	88718	Business daily online
kompravda.eu/nordeurope.kp.ru	6583	Komsomolskaya Pravda (RU)
dzd.ee	48355	Estonian Russian language weekly
uudised.err.ee	35932	PSB news portal

Data of tnsmetrix by TNS EMOR

Many media organisations encourage people's media within their outlets and channels, using the best pieces in their everyday news flow. For instance Delfi has launched a special section "Rahva Hää" (People's voice) in which the portal visitors can upload photos and news items. Also both larger private televisions have enabled the viewers to upload their videos on websites. Several media outlets have accounts on Facebook and Twitter, as well as RSS feeds and clips uploaded on YouTube.

Most terrestrial radio programmes can be listened to online. The public service broadcaster, Radio *Kuku* (a talk station run by the Trio Radio Group) and some other radio stations make their talk programmes available also as on-demand archives.

Although the share of Internet advertising has been constantly rising in the total advertising expenditure (3% in 2004; 14 percent in quarter 2, 2010), experts and industry professionals often conclude the cash flow still remains insufficient for cost benefit.

Social media online

The new innovative, interactive media services have instituted themselves among Estonian Internet-users, being preferentially used by younger age groups. Private websites, blogs, facebook, twitter, news groups on commercial net providers and other utilities are commonly known and progressively employed.

The research about user patterns is making its initial steps, thus comprehensive, wide based statistics can be hardly found on social media online operating leverage. The estimated number of active blogs is (standing in spring 2010) about 6,500.⁹ This is less than a year earlier (8,000). The number on entries weekly reaches 7,300 (a year earlier – 10,000). The peak-time of blogging in Estonia was spring 2009. An average blogger in Estonia is a 20 years old woman. The proportion of men and women among bloggers is 28 to 72%.

According to Eurostat, 21% of people contribute content produced by themselves to the Internet (December 2009). 260,000 people (20.3% of the population) have been registered as Facebook users.¹⁰ During the ash cloud crisis the Ministry of Foreign Affairs, the national air company and travel agency Estravel communicated with their customers via Facebook. Resolving the acute issues over the Internet enabled to lower the workload of customer services' phone lines.

Still the research done by the University of Tartu indicates that young age groups are quite passive in producing their own content to the Internet. They would rather upload photos and pictures (88% of users) and videos (62%), rather than school-related homework (less than half of users) or poems/stories (a quarter of users).¹¹

The blogging versus journalism discussion has also instituted itself in Estonia and debates are ongoing. However, the empiric observations of “civic” journalism (often provided by former journalists) allow to note that objective content and opinion are often blurred. Sometimes the entries tend to purposely insult or offend in a provocative manner. The good practices of journalism usually do not extend to blog entries.

Another way to put blogs to use is politicians disseminating their “private” thoughts about public issues, with an intention for the mainstream media to pick these quotes up and replicate in mass media. In these blogs the politicians are often not bounded with the diplomatic phrasing they employ in their everyday jobs.

News agencies

There is one news agency operating in Estonia: the Baltic News Service (BNS), which is a regional news agency covering Estonia, Latvia and Lithuania. BNS is the possession of the Finnish company Alma Media. The domestic Estonian News

⁹ Data in this passage about the blogosphere by T. Toots (CEO, Freqmedia OÜ) “Sotsiaalmeedia statistikast” [About statistics of social media], available at: <http://www.slideshare.net> (last visited on 23/10/2010).

¹⁰ Data by facebakers.com, September 2010.

¹¹ P. Runnel, P. Pruulmann-Vengerfeldt and K. Reinsalu, “The Estonian tiger leap from post Communism to the information society: From policy to practice”, 40 *Journal of Baltic Studies* (2009) 29.

Agency (*Eesti Teadete Agentuur*, ETA) was privatised in 2000 and went bankrupt three years later.

Other media outlets

Almost every municipality (both urban and rural) publishes a messenger-type outlet, which often takes the shape of a traditional newspaper. These newspapers are usually issued as independent editions, although the mainstream media (the Newspaper Association) declares them to be non-newspapers. Occasionally these outlets are accused of political bias; municipalities inconsistently violate editorial independence, especially on the eve of elections. Municipalities often accuse the independent media of paying insufficient attention to local issues and deliberately leaving certain issues uncovered. Regardless, municipal papers in some areas have proved to be important sources of local information. In some cases they are distributed on a subscription basis.

Media ownership and concentration

The media has been comparatively highly concentrated. In a small country like Estonia the concentration is somewhat inevitable, as some experts put it: due to shortage of resources, to attain quality, to achieve cost effectiveness.¹² Two larger media companies, Ekspress Group and Eesti Meedia, exhibit large concentration both horizontal and vertical, especially the latter, whose possessions cover cross media. Eesti Meedia has shares in several newspapers (50-100%), 100% shares in nationwide television and 32% of the shares of one of the two largest radio ventures (Trio LSL). Ekspress Group owns a variety of different newspapers and the biggest news portal Delfi. In addition, the major competing publishers have joint ventures (50:50 shares) for magazines, a tabloid daily (*Õhtuleht*) and a weekly free paper (*Linnaleht*), along with the postal delivery company Express Post.

2.2 Journalists' background and education

The journalist job is considered to be an unlicensed profession, which does not need any kind of registration, qualification, or affiliation to a professional guild. It means that anyone may act as a journalist – be a reporter, a columnist, an editor. In many cases journalistic job is being done on a free-lance basis, possibly even not on a regular basis.

The majority of journalistic jobs in Estonia are mainly concentrated into three companies: Eesti Meedia, Ekspress Group and ERR. The overall number of journalistic jobs in 2009 was about 1,200.¹³ The Estonian Journalists' Union has about 800 members (including retired and former journalists, students, and freelancers). The limited number of jobs is a factor that increases the importance of the loyalty of journalists to the employer in their careers. The number of women slightly exceeds the number of men in journalist jobs (52:48%), while at the end of the 1980s the standing was reverse (44:56%).

¹² See Loit, "Estonia", pp 605-606.

¹³ The research project "Changing journalism cultures: A comparative perspective" (University of Tartu, 2008-2011) identified 1193 journalistic jobs in all the media in 2009. Freelancers are not included. Data referred to in this section have been collected and processed within the above mentioned project.

The early 1990s were characterised by a generation shift: the inflow of young, often inexperienced journalists to the job due to restructuring the journalistic system (abandoning older generations of journalists, accruing of new jobs, etc). By 2009 the composition of journalistic jobs by age have shaped back to the model on 1988, still holding a shortfall of senior journalists – which inter alia affects the editorial boards’ ability to perceive historic contexts by having personally experienced recent past.

Table 2.4: Breakdown of journalistic jobs by age groups (%)

Age group	1988	1995	2009
under 20 years	NA	NA	0.4
20-29	12	40	28
30-39	31	28	28
40-49	27	15	25
50-59	25	14	13
60+	5	3	5

Data by the University of Tartu.¹⁴

As to the duration of job career, the mid 1990s were characterised by disposing of long-term experienced journalists – often through restructuring the industry – replacing them of very young generations of journalists. When in 1988 the share of journalists working more than 16 years in the job was 43%, it decreased to 22% by 1995. In 2009 the share was 32% – yet not reaching that of two decades earlier.

The share of people working as journalists having journalistic education or at least related training had increased by 2009 (53%), compared to the shares of 1988 and 1995 (both years 29%). This can be explained by widening opportunities for journalism and media studies (various curricula in several higher educational institutions). Also the number of graduates has increased in the recent decade.

¹⁴ See P. Tali, *Eesti ajakirjanike töö iseloomu muutumine (1988-2009)* [*Changing work practices of Estonian journalists (1988-2009)*], Bachelor’s Thesis, manuscript, University of Tartu (2010).

Table 2.5: Number of staff and graduates of the institute of journalism and communication of the University of Tartu working at media organisations in Estonia (standing at November 2009)

Outlet	Management and journalists	Journalism graduates from University of Tartu	Percentage (%) out of total
ERR	274	51	18.6
Postimees	67	26	38.8
Eesti Päevaleht	71	25	35.2
Õhtuleht	43	10	23.3
Äripäev	34	6	17.6
Eesti Ekspress	32	11	34.4
Maaleht	29	11	37.9
Regional and local papers*	114	26	22.8
Magazines**	74	19	25.7
TOTAL***	738	185	25.1

Data by the University of Tartu, institute of journalism and communication.

Statistics bases on information displayed on media organisations' homepages.

* Surveyed regional and local papers: *Pärnu Postimees, Sakala, Meie Maa, Oma Saar, Põhjarannik; Virumaa Teataja, Võrumaa Teataja, Lääne Elu.*

** Surveyed magazines: *Eesti Naine, Anne, Kodukiri, Pere ja Kodu, Kodu & Aed; Elukiri, Cosmopolitan, Kroonika, Haridus, Akadeemia, Looming, Horisont, Arvutimaailm, Director.*

*** Independent production companies, niche magazines, diminutive local papers, some cultural outlets, and outlets of particular organisations not included.

Although only 25% of all professionals in journalism have graduated from the oldest institution in the country providing degrees in journalism – University of Tartu – the general public and even the professional community still holds it responsible for low degree of professionalism in journalism and poor skills of novices.

On the other hand the media organisations demurely spend on professional training. The Estonian Media Centre (founded as a media college by the newspaper association and the association of broadcasters in 1995) failed, as the large media organisations were reluctant to sustainably finance these mid-career training courses (not to produce workforce for the competitors).

2.3 Media literacy and media status in society

Media consumption is an integral facet of everyday life in Estonia. Regular newspaper readers make up 74.3% of the population (Estonians: 76.3%, Russian-speakers: 70.2%); 58.9% (Estonians: 71.8%, Russian-speakers: 32.2%) read magazines regularly. Consumption of print media in general is decreasing. The average inhabitant of Estonia listens to radio for four hours and one minute daily, and watches TV for another four hours and nine minutes per day. 66.6% of the population

has used the Internet during the past six months.¹⁵ Internet usage seems on a permanent upswing while rates of TV consumption are stable and radio listening has decreased.

Broadcasting is a notably more trusted medium than newspapers, although it does not produce much original content. According to Eurobarometer (fall 2009), 70% of all population trust or generally trust television content, compared to 43% for print media. Public service broadcasting is trusted by about a quarter more than private broadcasting (75% versus 58%).¹⁶ The trust rating for Internet was 42% in 2009, compared to over 50% in 2003.

Estonia, in the context of media literacy, holds the best position among the Baltic countries¹⁷, since the national curriculum includes elements of media education. The cross-curricular theme “media education” was introduced to the National Curriculum in 2002 and curricula of mother language also include media education with focus on different types of written texts.¹⁸ In sum on the curriculum level the media educators have been active for about a decade.¹⁹ In 2010 the Estonian Association of Media Educators was revived. Although a whole generation has grown up within the internetised environment, the research indicates that young Estonian media users tend to be passive consumers rather than active content creators and commentators.²⁰

3. Media policy in Estonia

Media policy in Estonia is characterised by absence of any policy paper and by resolving issues on a case-by-case basis without any apparent long-term vision followed. The Ministry of Culture, the authority for working on media issues, has claimed that the policy is reflected in imposed laws.²¹ However, undermanned units merely allow sporadic supervision and cautious enforcement of media related laws makes the legislation “sleeping”. As the freedom of press is perceived as an absolute one, no official hurries to fall under resentment of the media community.

3.1 Actors of media regulation and policy

Media issues are under the governance of the Ministry of Culture. This body acts as a regulator for broadcasters: it issues licences and supervises the implementation of the Broadcasting Act [*Ringhäälinguseadus*]. It also handles copyright issues and supervises compliance with the Act to Regulate Dissemination of Works Which Contain Pornography or Promote Violence or Cruelty [*Pornograafilise sisuga ja vägi-valda või julmust propageerivate teoste leviku reguleerimise seadus*]. For the latter

¹⁵ Data by TNS EMOR (2008).

¹⁶ Data by Turu-uuringute AS (2009).

¹⁷ H. Harro-Loit, “From media policy to integrated communications policy” in B. Klimkiewics, (ed.), *Media freedom and pluralism. Media policy challenges in the enlarged Europe* (2010) 45.

¹⁸ H. Harro-Loit, et al., “Läbivad teemad õppekavas” [Cross-curricula themes], *Haridus*, 11-12/2007, at pp. 18-24.

¹⁹ K. Ugur, and H. Harro-Loit, “Media literacy in the Estonian national curriculum”, in S. Kotilainen and S.-B. Arnolds-Granlund (eds), *Media literacy education. Nordic perspective* (2010) 133.

²⁰ P. Runnel, P. Pruulmann-Vengerfeldt and K. Reinsalu, “The Estonian tiger leap from post Communism to the information society: From policy to practice”.

²¹ English translations of Estonian legal acts can be retrieved at: <http://www.legaltext.ee/indexen.htm> (last visited on 23/10/2010).

task, the Ministry has instituted a commission to evaluate the cases under discussion. For supervision purposes the Media Division has been instituted within the Ministry. The Division employs two officials. As the latter also work on copyright and other policy-making related issues, the supervision is sporadic and usually not qualitative. The rest of the media landscape even less gets the sights of the Ministry. Yet in matters considering broadcasting the Ministry has declared that its broadcasting policy appears without a formulated policy paper.

Advertising issues are under the scrutiny of the Consumer Protection Board, which has assembled an advisory body for construing the provisions of the Advertising Act [*Reklaamiseadus*].

The technical aspects of broadcasting and other electronic media lay under superintendence of the Technical Surveillance Authority – a regulator within the governance area of the Ministry of Economic Affairs and Communications.

The Public Broadcasting Council, a body appointed by parliament, supervises public service broadcasting. In total, there are nine members in this council, five of them politicians and four from related professions.

The Estonian Data Protection Inspectorate is the supervisor for implementation of the Public Information Act and Personal Data Protection Act.

All supervisory units tend to be undermanned to fulfill their tasks sufficiently. Their attention to media related issues is usually initiated by complaints by the public.

The main non-governmental media organisations are the Newspaper Association (defining itself as a multitask organisation for newspaper publishers, editors and journalists), and the Association of Broadcasters (representing the interests of commercial broadcasters, both television and radio). The Estonian Journalists' Union plays the role of a trade union as well as that of a professional guild. Media educators have formed the Association of Media Educators. Independent producers in the audiovisual sector have a representation body as do advertising agencies. While associations of publishers and broadcasters assemble most of the players of these sectors, the most active journalists have no affiliation with a journalists' union.

Media self-regulation rests upon the press council, founded in 1991. In 2002 it went through a cataclysm which led to the creation of a new press council affiliated to the newspaper association. As the original press council also continued to operate, two press councils exist. As explained more in detail in Section 3.2.2, the contradiction lays in principles of implementing self-regulatory mechanisms, while the newspaper association reduced the issue to “mismanagement by the then chairperson”.

3.2 The media regulatory framework

3.2.1 Freedom of expression and information

The Constitution grants freedom of expression. Two comprehensive constitutional articles provide grounds for the free dissemination of ideas, opinions, beliefs and other information by word, print, picture or other means²² and for freely obtaining

²² Constitution [*Põhiseadus*], Article 45.

information disseminated for public use.²³ Although legally provided with reservations, these rights are interpreted as “first priority” rights and this is the way they are implemented by the media. Any kind of in-depth criticism or editorial processing is often considered “censorship”, although these activities contain no state intervention or sanctions. Censorship is banned by the Constitution.

The Constitution does not distinguish between press freedom and the general freedom of expression (like for instance in Germany). At the same time the media organisations have²⁴ employed the freedom of speech for most part as the specific defence right for the press, even if not “irreplaceably contributing to the political debate” (as the European Court of Human Rights has reasoned the protection of press freedom). The key problem is that special privileges for media may be in strong tension with the general free speech guarantees. The Strasbourg Court has at times come close to giving higher protection to media speech than to the expression of individuals. These cases are mostly connected to political speech and politicians. Hence, it is important to keep in mind that the Strasbourg Court affords an especially high level of protection to “political speech”. Another important point is that the Court often talks about information that “the public has a right to receive”. Hence, the Strasbourg Court is concerned with audience based, rather than speaker based values.²⁵ In debates concerning freedom of expression held in Estonia this complicated differentiation concerning the Strasbourg case law is not usually taken into consideration.

From a legislative point of view, Estonia offers a liberal environment for the media. No specific “media law” exists, except for the Broadcasting Act. The print media issues are covered by general laws, sometimes leaving unregulated areas (e.g. the person responsible for the publication and liabilities of the responsible editors). The only law that ever refers to “journalistic data processing” is the Personal Data Protection Act. No licence, permit or registration is required to set up a newspaper.

Estonia signed the European Convention on Human Rights in 1993 and ratified it in 1996. It is thus bound to respect Article 10 of the Convention. According to Freedom House, in 2010 Estonia ranks at the 19th position in the table of global media freedom, sharing the position with Germany. Estonia lies between Portugal (rank 18) and the USA (rank 24).²⁶ Estonia lags behind its Nordic neighbours (Finland, Iceland, Sweden, Norway, Denmark), but has the best position midst its Baltic neighbours -Lithuania (rank 32) and Latvia (rank 55), and among other Central and Eastern European countries.

3.2.2 Structural regulation

Statutory rules regulate the broadcasting and advertising sectors while the written press relies mostly on self-regulation.

The Broadcasting Act, passed in 1994, regulates radio and television. The law was brought in line with EU directives at the millennium shift and is currently under

²³ Constitution, Article 44.

²⁴ Until the Supreme Court case RK 3-2-1-43-09 of 10 June 2009, *Vjatšeslav Leedo vs Delfi*.

²⁵ H. Fenwick and G. Phillipson, *Media freedom under the Human Rights Act*, (2006), at p. 25, 61, 68.

²⁶ Freedom House, Freedom of the press 2010, Table of global press freedom rankings, available at: <http://freedomhouse.org/images/File/fop/2010/FOTP2010Global&RegionalTables.pdf> (last visited on 2/10/2010).

revision in the light of the recent EU *Audiovisual Media Services Directive*. Standing at fall, 2010, the draft law is under discussion by the government, after what is going to be submitted to the parliament for adoption. As of 2005 the Act on Electronic Communication entered into force. In combination with the Broadcasting Act, this law delineates competencies for the Ministry of Culture, which issues the broadcasting licences (for content), and for the Estonian Technical Surveillance Authority (known prior to 2008 as the Communication Board), which allocates frequencies and issues technical licences.

The Broadcasting Act sets up the licensing conditions for terrestrial radio and TV broadcasting. The licences are issued on contest base and reissued after at least every five years on the same conditions. The cable televisions need also to take a licence but there is no contest while issuing these. Internet television and radio does not need any licence under the current law. For the issuance of content licences the Ministry of Culture has instituted a commission to discuss the applications, the resolution of which has a character of a recommendation for the minister who makes the final call.

The Ministry has the right to refuse to issue a licence in case “a person operating as a television and radio broadcaster or the responsible publisher of a daily or a weekly newspaper would become simultaneously a person operating as a television and radio broadcaster and the responsible publisher of a daily or a weekly newspaper in the territory planned for the broadcasting activity or a part of the territory of Estonia”. This restriction shall not extend to the television guide published by a broadcaster itself.²⁷ However, this restraint has never been implemented, although the formal conditions of Schibsted’s possessions in Estonia (enjoying shares in several newspapers of 50-100%, 100% shares of nation-wide television and 32% of the shares in one of the two largest radio ventures) would require enforcement of the clause under discussion. Moreover, the Broadcasting Act provides only the grounds for refusing to issue a broadcasting licence, not for revoking a licence. Monopoly or cartel conditions are not listed as one of the reasons for which a licence may be revoked, nor is there any general statement prohibiting concentration in the market.²⁸

The probable cause for not implementing this provision lays in its declaratory nature. There are no sufficient legal definitions (e.g. “responsible publisher”) in the regulation. Furthermore, the possessions of Schibsted have been registered under different legal entities: Kanal 2 is registered as a property of Schibsted, while *Postimees* as the property of Eesti Meedia. This may allow the argument that Schibsted’s holdings do not even exhibit concentration according to the law.²⁹

Thus there is also no mono-media ownership regulation, presumably due to the liberalist viewpoints of the legislator. On the other hand, cross-media ownership is disallowed, but only in a declaration. The draft Media Services Act³⁰ limits the restraint, under which the licence issuance may be rejected, to “substantially producing of potential endamage to competition on some media markets”, which again does not provide explicit legal definitions.

As of 2007 the regulation about the public service broadcaster ERR has been separated into an individual act, enacting also the merge of the hitherto separate

²⁷ Broadcasting Act, article 40, section 4, subsection 8.

²⁸ Loit, U., “Estonia”, at p. 605.

²⁹ Ibid.

³⁰ Standing at 13/08/2010, in the stage of inter-ministerial coordination on the draft.

public radio and public television. The law specified the objective and functions of public broadcasting and reinforced the liabilities of responsible officials (members of the board and the broadcasting council).

According to amendments made in 2001, there is no advertising in public service broadcasting; as of July, 2002 it was excluded from public television. In 2005 ads were removed from public service radio. This leaves the allocations from the state budget to be the sole main source (except for own earnings from providing some services) for financing ERR.

The Competition Act [*Konkurentsiseadus*] holds a general scope of regulation and addresses no media-related specific issues. The Competition Authority has seldom processed media-related cases: there have been only four complaints during the last five years and four authorisations of concentration of media ventures since 2005.³¹

The written press has no specific laws affecting its operations and thus relies mostly on self-regulation. However, the latter tends to perform rather in favour of media organisations than the general public, meaning that self-regulatory mechanisms rather justify media behaviour than protect public interest. As a result of dissensions on principles of self-regulation,³² two press councils have existed since 2002. The majority of mainstream media organisations (including online media and TV broadcasters) only recognise the press council that is affiliated to the Estonian Newspaper Association. The original press council (the Estonian Press Council, established in 1991) works jointly with the Journalists' Union, still finding cooperation with some media outlets and channels.

The main instrument of media accountability is the Code of Ethics for the Estonian Press,³³ which was adopted on the basis of wide consensus represented by the media associations in 1997. It has never been amended since and has been adapted for the online media pursuant to applicability, i.e. as much as the provisions can be applied to online media issues.

3.2.3 Content regulation

General content requirements and quota rules

Content requirements have been set for broadcasting, while printed press and new media operate on their own. The public broadcasting has more prescriptions on content than private broadcaster and, as to the EU regulations, private televisions have more obligations than private radios. The rules have been enforced by the Broadcasting Act, which is being drafted into the Media Services Act

³¹ Data gained from the Estonian Competition Authority's website, <http://www.konkurentsiamet.ee> (last visited on 2/10/2010).

³² The newspaper association has found that the lay organisations, institutionally participating in the work of the original press council should not interfere in the self-regulatory processes which should be left solely for publishers' consideration. Estonian media hardly withstands any criticism, including academic one, towards them. Therefore, the new council avoids these potential conflicts: does not proceed complaints on general quality on media, complaints submitted for someone else, etc. For more details see E. Lauk., "How will It all unfold? Media systems and journalism cultures in post – communist countries" in K. Jakubowicz and M. Sükösd (eds), *Finding the right place on the map. Central and Eastern European media change in a global perspective* (2008) 193.

³³ See Estonian Press Council, "The code of ethics for the Estonian press", available at: http://www.asn.org.ee/english/code_of_ethics.html (last visited on 2/10/2010).

[*Meediateenuste seadus*]. The draft of the latter has yet not been released for the general public. According to the explanations by the Ministry of Culture,³⁴ the new law simplifies the licensing procedures and sets rules for non-linear services. The blogs and other internet-based media remain out of the scope of the draft law.

The Broadcasting Act³⁵ prescribes all broadcasters (radio and television) to provide newscasts for at least 5% of the daily transmission time. The minimum weekly transmission time is 84 hours for radio, 56 hours for television and 21 hours for cable television. In some cases this has been extended under the conditions of the broadcasting licence. Television operators along with the requirements imposed by the European directives (European audiovisual works for at least 51% of the total transmission time; works by independent producers for at least 10% of the total transmission time) must carry at least 10% of own production,³⁶ of which half must be broadcasted during the prime broadcasting time (between 19 and 23 hours).

All broadcasters need, in the case of a threat to public security or the constitutional order, promptly transmit the official announcements of the State institutions in all their programme services at their own expense. Broadcasters also must, without delay and free of charge, transmit in all their programme services information which is necessary for the protection of the life, health and security of persons or for the prevention of damage to property or of danger, or for the prevention or reduction of environmental damage.³⁷

The task list for the public broadcaster is much more comprehensive, assigned by the law. The functions *inter alia* include the following activities:

- Producing at least two television programme services and four twenty-four-hour radio programme services;
- Making available, to a reasonable extent, the programme services and the programmes' archive through electronic networks;
- Recording events and works of significant importance to the Estonian national culture or history, and guaranteeing the preservation of the recordings;
- Distributing the programmes and media services introducing Estonian culture and society all over the world;
- Intermediating the best works of the world culture;
- Transmitting programmes which, within the limits of the possibilities of National Broadcasting, meet the information needs of all sections of the population, including minorities;
- Guaranteeing the operational transmission of adequate information in situations which pose a danger to the population or the state;

³⁴ See V. Rosental., "Meediateenuste seadus hakkab asendama ringhäälinguseadust" [The Media Services Act shall replace the Broadcasting Act], *Äripäev*, 18/03/2010.

³⁵ Programming requirements contained in article 4¹.

³⁶ Under the Broadcasting Act "own production" means programmes and programme services relating to contemporary Estonia or Estonian cultural heritage, produced by a broadcaster itself or in co-operation with producers from the member states of the European Union or commissioned from an independent European producer (article 4¹, section 3).

³⁷ Broadcasting Act, article 10.

- Reflecting, to the maximum possible extent, the events which take place in Estonia in its newscasts and other programmes.³⁸

In addition to that the programme services of the public broadcaster must be diverse and balanced, promote social cohesion, include independent and appropriate news, and maintain political balance, especially during the election campaigns.³⁹

The obligation for political balance has been imposed also on private broadcasters in the way that all political parties and political movements should be granted transmission time to present their positions on equal terms, which may be set by the broadcaster.⁴⁰

Codes of conduct

The Code of Ethics for the Estonian Press (hereafter: the Code) has been accepted by all the Estonian media organisations and both Press Councils base their adjudications on this Code.

The general ideology of the Code is biased towards a teleological approach: the wording of the Code directs the media organisation or journalist towards moral reasoning that takes into consideration the result of one's decision or action. The recurrent dilemma of values is consideration of individual suffering against the importance of the information for public interest. The Code allows journalists to use ethically questionable means for getting information in cases "where the public has a right to know information that cannot be obtained in an honest way".⁴¹ For this particular article the Code has also been often criticised both by the professional community and the outsiders.

Another particularity of the Estonian Code is to lay the responsibility for the quality of journalism both on journalists and the media organisation. It particularly emphasises the responsibility of news organisations for publishing truthful and accurate information.⁴²

The Code has never been amended since its adoption in 1997. One of the reasons is the lasting opposition between the two Press Councils, and between the original press council and the newspaper association (essentially about the right to provide methodical criticism towards media). Another reason may be that journalists have not adopted the Code as the primary guide of their everyday work. This, in turn, seems to be closely related to the education of journalists. Two pilot-studies on journalists' professional values in 2009/2010⁴³ indicate that journalists without professional education tend not to value professional ethics. They are not acquainted with the Code and only have vague ideas about the basic norms of professional ethics as the interviews revealed. As mentioned above, this code is adapted also to cases concerning new media, as there is no specific code for net ethics.

³⁸ Estonian National Broadcasting Act [*Eesti Rahvusringhäälingu seadus*], article 5.

³⁹ Estonian National Broadcasting Act, article 6.

⁴⁰ Broadcasting Act, article 6¹.

⁴¹ Code, art. 3.7.

⁴² Code, art. 1.4.

⁴³ E.g. T. Ahonen, *Ajakirjanike võimalikud eetilised dilemmad ja väärtuste konfliktid Estonian Airi kajastamise näitel* [*Potential ethical dilemmas of journalists: a case study of reporting Estonian air business problems*], (2010); M. Kangur, *Eesti ajakirjanike hoiakud eetiliste konfliktide puhul* [*Attitudes of Estonian journalists in case of ethical conflicts*] (2009).

An independent code has been adopted by the business daily *Äripäev* in 1993 and amended twice. *Äripäev*'s code defines the rules for business journalists in cases of personal business interests that the general code does not provide and sets the inner rules of the company.

Advertising rules

The advertising rules are mainly set by the Advertising Act [*Reklaamiseadus*]. In addition, some specialised laws (e.g. the Medicinal Products Act [*Ravimiseadus*]) provide some special requirements for advertising in the particular sector. There is a total ban for advertising of tobacco, health services, infant formulae, gambling, services offered for satisfaction of sexual desire and some items illegal also by their nature. In addition, advocates and sworn translators, notaries and bailiffs, and patent agents cannot advertise. Advertising of plant protection products, alcohol, medicinal products, and financial services has certain restrictions – either by channel, by locating the advert, or by time. No advertising is allowed on public television and public radio, pursuant to the Estonian National Broadcasting Act.

As the Advertising Act was introduced as an imposing of good practices by legal means in 1997, Estonia is almost the only country in Europe in which the self-regulation in the advertising sector has not emerged. On the other hand the Advertising Act is the example of a sleeping law, as it is poorly and inconsistently enforced.

Rules regarding media publishing

The Law of Obligations Act [*Võlaõigusseadus*] covers defamation. Estonian jurisprudence does not itemize *libel*. In Estonia defamation appears only in the form of a civil suit – it is not a penal offence since 2002.

The defamation of a person, inter alia by passing undue judgement, by the unjustified use of the name or image of the person, or by breaching the inviolability of the private life or another personality right of the person is, as a rule, unlawful.⁴⁴ The burden of proof rests with the person disclosing the information, i.e. with the media. In the case of disclosing incorrect information, the damaged party may demand refuting the information or publishing a correction at the offender's expense, even if the disclosure of the information was lawful.⁴⁵ However, this regulation does not favour people bringing their cases to the court, as also the burden of proof for moral damage rests with the complainant. Standing at fall, 2010 the Ministry of Justice has proposed amendments to the Law of Obligations Act to introduce “punitive damages” which the media organisations, especially the Newspaper Association completely resist, claiming it affects the freedom of speech.

Privacy protection is carried through the Personal Data Protection Act (*Isikuandmete kaitse seadus*; hereafter: PSPA) and the Law of Obligations Act. The first is the only law explicitly specifying media conduct. The PSPA provides the conditions and procedure for processing of personal data and liability for the violation of the requirements. Among sensitive personal data are the following: data revealing

⁴⁴ Law of Obligations Act, article 1046.

⁴⁵ Law of Obligations Act, article 1047.

political opinions or religious or philosophical beliefs; ethnic or racial origin; data on the state of health or disability; information on sex life; information concerning commission of an offence or falling victim to an offence before a public court hearing, etc.

Personal data may be processed and disclosed in the media for journalistic purposes without the consent of the data subject, if there is predominant public interest therefore and this is in accordance with the principles of journalism ethics. Disclosure of information must not cause excessive damage to the rights of a data subject.⁴⁶

In 2007 also the Public Information Act [*Avaliku teabe seadus*] was renewed (entered into force on 1 January 2008) and supplemented by the formerly single Databases Act. As a rule, the data processed in the database shall be publicly accessible, unless the access to which on the ground of law is restricted. Concurrently, the databases shall not publicly contain personal data, unless the imperative of disclosing of those derives from the law.⁴⁷

Copyright is under protection of the Copyright Act [*Autoriõiguse seadus*], which came into force in 1992. The effectiveness of collecting the royalties depends largely on the performance of collecting societies. For instance the Estonian Authors' Society has established a solid system collecting royalties even before the law took effect – the system of which is often critically assessed by the broadcasters for high fees. On the other hand the Estonian Association of the Phonogram Producers was established only in 1998 and is still going to law against private broadcasters to establish the degree of fair and reasonable royalties.

The State Secrets and Classified Information of Foreign States Act [*Riigisaladuse ja salastatud välisteabe seadus*] settles the grounds for the protection of state secrets and the classified information of foreign states (considering Estonia being the full member of the EU and the NATO), and liability incurring from violating the act. The distinctive feature of this law is that the restrictions of dissemination apply to any person having “accidentally” or otherwise got the grasp of any information classified under that act. It means that even in case of information unlawfully leaked to the mass media the media outlets have no right to replicate it and liability applies to anyone publicising the classified information.

Rules regarding information gathering processes

Article 44 of the Constitution provides a comparatively wide framework for access of the general public to the public information. The Public Information Act, passed only in 2000, sets rules for complying with requests for information. Also, it prescribes disclosing public information in the Internet.

The journalists' sources have been legally protected only in case of broadcasting (under the Broadcasting Act). In other respects (printed press), it has been the matter for self-regulation. Although no cataclysms have yet occurred the Ministry of Justice has initiated a law to extend the regulation in the Broadcasting Act also to journalists in all other media channels. Besides the current law obligates the

⁴⁶ Personal Data Protection Act [*Isikuandmete kaitse seadus*], article 11, section 2.

⁴⁷ E. Tikk, and A. Nõmper, *Informatsioon ja õigus [Information and law]* (2007), at p. 160.

journalists to reveal their sources on the request of the court of law – even in civil cases. The draft law limits this only to a narrow list of serious criminal frauds. However, the Newspaper Association finds the suggested list of frauds too wide and hazardous for future sources' security, and opposes also this legal initiative.

Rules regarding social media publishing and search engines

No special rules regarding social media publishing exist in Estonia. Neither are there any rules about search-engines. The latter has yet not become topical either.

4. Media policy and democratic politics: an assessment

Newspaper subscription and reading traditions go back to the nineteenth century due to the high rate of literacy among Estonians (over 90% in the 1890s). During the nineteenth century, the press played the considerable role of educator and national and cultural integrator. These traditions were maintained during the Soviet period with the press fulfilling a dual role: on the one hand it was the Communist Party propaganda channel, on the other hand, within the framework of the same official and censored press a hidden oppositional agenda was developed.⁴⁸ Therefore, the press played a particularly significant role in the independence movement in 1989/1991.

The roots of the almost absolute press freedom lay in the totalitarian past when the mass media was strongly canonised and controlled out of the editorial boards (censorship on many levels: including hidden, pre- and post-censorship). The reasonable abandonment of external interventions has overgrown into rejecting any public regulation, including protecting the rights of persons affected by the media conduct. This also explains for example the severe reluctance of the newspaper association against the drafted law amendments to legally institute the protection of journalists' sources and introduce punitive damages for reducing endamagement.

Advantageously, the professional training in the University of Tartu started as early as in 1954, initially as part of philology curriculum. In 1978 a separate department of journalism was founded. When in the rest of the USSR the journalism training was predominantly attached to the communist party instituted higher education for ideology training, in Estonia it was bounded to scholarship of national culture. Paradoxically, the journalism education at the university⁴⁹ provides advantages also under the current situation in which the values of the professional media system have been strongly subjected to market principles. A research university by combining the resources of research and teaching is capable of continuing the critical-analytical education on journalism.⁵⁰

The media had experienced drastic structural changes by the end of the 1990s, when the market began to stabilise and foreign investments arrived. There were certain expectations that foreign owners' experience and know-how would be a good

⁴⁸ S. Hoyer, E. Lauk, and P. Vihalemm, *Towards a civic society. The Baltic media's long road to freedom. Perspectives on history, ethnicity and journalism* (1993).

⁴⁹ Currently the journalism related courses are held also in other universities than the University of Tartu. For instance the curriculum of The Baltic Film and Media School, affiliated to the Tallinn University includes portions of television and media studies.

⁵⁰ H. Harro-Loit, "Cost effectiveness of journalism education in a small nation-state", 2 *Journalism Research, Science Journal (Communication and Information)* (2009) 138.

basis for the further development of journalistic professionalism and democratic media cultures;⁵¹ but this was not the case. As Peter Gross claims, “there is no indication that the Eastern European media outlets that came under Western European ownership have in any way measurably improved their journalism”.⁵² For the local managers of the media outlets and media elite, a serious conflict of interests arises: under the pressure of ensuring profit for the investors they should also be concerned about the quality of national journalism. As a consequence, commercial ideology increasingly prevails over public service ideology and aggressive commercial policies are being pursued at the expense of journalistic standards. Journalism has largely lost its traditional cultural and integrating roles. On the other hand, investigative journalism is gradually developing that was completely unthinkable under the Soviet regime.⁵³

Expanding online news provides challenge for the professional journalism. Non-limited space possibilities mean that online journalists have to produce several news items per day, therefore, often using various kinds of publicly available information such as PR news, promotional writing, translations from other online information sources, etc. rather than investing in the development of original journalism online. The colonisation of online news discourse by PR offerings is part of a wider social practice but in the context of expanding online publishing possibilities it is important to estimate how much original-professional journalistic input is provided by media organisations.⁵⁴

Concerning the question about preserving professional journalism one should keep in mind that the media organisations, which operate in small media markets (like Estonia), are generally vulnerable to the intervention of promotional materials, as they are eager to collect all the advertising money available. There are different attitudes among the news organisations towards what should be considered promotional material and whether it should be avoided, tolerated or even looked at. The counterbalance to economic pressure should be the ideology of professional independence, but in Estonia the professional culture seems to be too weak to resist such pressure in case the media organisation has its strong content-independence policy. E.g. national dailies do use various means in filtering promotional material away from their journalists such as in-house regulations, the physical separation of advertising and editorial departments on different floors or the use of specific layout software programs, though the editors have admitted that cooperation has sometimes happened in their organisations. Furthermore, a very small job-market makes the ideology of professional independence vulnerable. Journalists, instead of being loyal in the first instance to their professional ideals, have to be in first instance loyal to the ideology of their employer.⁵⁵

⁵¹ A. Balčytienė and E. Lauk, “Media transformations: the post-transition lessons in Lithuania and Estonia”, 33 *Informacijos Mokslai/Information Sciences* (2005) 96.

⁵² P. Gross, “Between Reality and Dream: Eastern European media transition, transformation, consolidation, and Integration” 18/1 *East European Politics and Societies* (2004) 125.

⁵³ E. Lauk, “Reflections on changing patterns of journalism in the new EU countries” 10/ 1 *Journalism Studies* (2009) 69, at p. 78.

⁵⁴ A. Balčytienė and H. Harro-Loit, “Between reality and illusion: re-examining the diversity of media and online journalism professionalization in the Baltic States”, 40/4 *Journal of Baltic Studies* (2009) 517.

⁵⁵ See H. Harro-Loit and K. Saks, “The diminishing border between advertising and journalism in Estonia”, 7/ 2 *Journalism Studies* (2006) 312, at pp. 312-322.

Although the current trend is to integrate media and information or communications policy, in the case of Estonia one can see paradoxes with the aim of strengthening the public sphere. The Estonian communications policy (liberalisation of the telecommunication market, decreasing prices, government initiatives e.g. Tiger Leap project for schools, development of e-banking and other e- services, etc.) has guaranteed rapid increase in the Internet usage since the end of the 1990s. Hence realisation of communication rights of citizens (e.g. access to full and fair information that affect their lives; the right to express one's views; etc.) seems to be rather well achieved. In practical terms this means, that citizens need to have competences of information processing that helps them to satisfy their needs and desires. Hence, "access to communication" is linked to the question of media literacy.

Factors that determine the content of media are mutually constituted by the size of the media market, its structure, professional journalistic discourse, accountability instruments, the regulatory and policy framework and technologies. Here the Estonian policy trend to evaluate "market neutrality" neglects the commercial pressure that affects the quality of information. Research has shown that the principle of liberal market policy has led to commercial broadcasters having certain advantages while the Public Service Broadcasting has had problems with the legal frame, leadership and financing. Still, the public service broadcaster is seen as a credible source of information and a channel of quality.⁵⁶

5. Conclusion

Socio-politically Estonia is a small but very liberal media market in the discretion of media-economic levers. Concentration is not avoidable, as the market fragmentation between numerous small and poor media organisations would also not assure professional quality of journalism inevitable for a democratic society. However, the democratic society needs endurance of professional and reliable journalism, which rather interprets than conveys the news. Especially under circumstances in which the electronic information flow causes extensive heterogeneity in media use. Therefore the role of professional journalism would create a common agenda, national identity and a trustworthy arena for the public debate. As Jane Singer says speaking about journalism during the Internet era - instead of being only gate-keepers professional journalists must become sense-makers; instead of being agenda-setters they must become interpreters of whatever is both credible and valuable.⁵⁷

This outlines the media-political paradox of a small media market: on the one hand it is inevitable to maintain a liberal media policy, which would support both economic operations and press freedom. The state interference may impoverish the market, dependant on political forces. On the other hand, the prevalence of commercial values provides apparent diversity (plenitude of news, pluralism of views), but unavoidably cheapens the content. Hence, the question of diversity and quality of journalistic content remains a vulnerable issue.⁵⁸

⁵⁶ M. Lõhmus, M. H. Tiikmaa, A. Jõesaar, "Duality of Estonian public service media", 3 /1 (4) Central European Journal of Communication (2010) 95.

⁵⁷ J. B. Singer, "The socially responsible existentialist: A normative emphasis for journalists in a new media environment", 7 Journalism Studies (2006) 2.

⁵⁸ A. Balčytienė and H. Harro-Loit, "Preserving journalism 2010", in B. Dobek-Ostrowska, M. Głowacki, K. Jakubowicz and M. Sükösd et al. (eds), *Comparative media systems. European and global perspectives* (2010) 193.

Another media quality related problem lays in the ability of individuals to protect themselves against misleading information disseminated by media which is committed to commercial value and speed. In other words, media-politically it would be predilectable to maintain a system under which the media organisations find economically motivating to check the accuracy of information prior to publication. Currently the media organisations rarely fear facing law suits by individuals.

During the two decades of regained independence the competence of law courts has increased in the field of public information and journalism-related breaches of human rights. In this regard the court case *Vjatšeslav Leedo vs. Delfi* (2009) sustained a subversive character. The adjudication of the Supreme Court on 17 pages for the first time publicly debated over liability of a media organisation in readers' generated comments to online news items. Inter alia partly the argumentation was based on economic models of particular media organisations: as the readers generated comments these were regarded to be a part of the business model. As the Supreme Court stated: the media organisation gets more profit when news get more comments. Hence, news organisations are liable for the comments.

As to the media-political discourse, until the millennium shift the analysis mainly focused on broadcasting policy. It was that way not only in Estonia but generally in academic publications about media in Central and Eastern Europe. Comprehensive analysis about court cases, shaping the public communication policies, is almost absent both in Estonia and the rest of Europe (except for Anglo-American countries). Lawyers have paid attention to communication law only recently: the textbook for students of journalism and communication about media regulation was published in 1996,⁵⁹ while the corresponding textbook for lawyers appeared only in 2007.⁶⁰

⁵⁹ H. Harro, *Ajakirjandusvabadusest kommunikatsioonivabaduse poole* [From freedom of press towards freedom of communication] (1996).

⁶⁰ Tikk and Nõmper, *Informatsioon ja õigus*.

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State Secrets and Classified Information of Foreign States Act [*Riigisaladuse ja salastatud välisteabe seadus*]



Addendum 1

COUNTRY REPORT: ESTONIA

by

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1. ABOUT THE PROJECT

1.1 OVERVIEW OF THE PROJECT

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the first pan-European implementation of the MPM. The implementation was conducted in 28 EU Member States, Montenegro and Turkey with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

1.2 METHODOLOGICAL NOTE

The CMPF cooperated with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the cases of Malta and Italy where data collection was carried out centrally by the CMPF team. The research was based on a standardised questionnaire and apposite guidelines that were developed by the CMPF.

In Estonia, the CMPF partnered with Urmas Loit and Halliki Harro-Loit (University of Tartu), who conducted the data collection, commented the variables in the questionnaire, and interviewed relevant experts. The report was reviewed by CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annex 2 for the list of experts).

Risks to media pluralism are examined in four main thematic areas, which represent the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of 20 indicators - five per each thematic area:

Basic Protection	Market Plurality	Political Independence	Social Inclusiveness
<i>Protection of freedom of expression</i>	<i>Transparency of media ownership</i>	<i>Political control over media outlets</i>	<i>Access to media for minorities</i>
<i>Protection of right to information</i>	<i>Media ownership concentration (horizontal)</i>	<i>Editorial autonomy</i>	<i>Access to media for local/regional communities and for community media</i>
<i>Journalistic profession, standards and protection</i>	<i>Cross-media concentration of ownership and competition enforcement</i>	<i>Media and democratic electoral process</i>	<i>Access to media for people with disabilities</i>
<i>Independence and effectiveness of the media authority</i>	<i>Commercial & owner influence over editorial content</i>	<i>State regulation of resources and support to media sector</i>	<i>Access to media for women</i>
<i>Universal reach of traditional media and access to the Internet</i>	<i>Media viability</i>	<i>Independence of PSM governance and funding</i>	<i>Media literacy</i>

The results for each area and indicator are presented on a scale from 0% to 100%. Scores between 0 and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk. On the level of indicators, scores of 0 were rated 3% and scores of 100 were rated 97% by default, to avoid an assessment of total absence or certainty of risk¹.

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection and authored the report.

¹ For more information on the MPM methodology, see the CMPF report “Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2016 in EU-28, Montenegro and Turkey”, <http://monitor.cmpf.eu.eu/>



2. INTRODUCTION

Estonia is a small country, both by population and territory. The population is 1.3 million which, by and large, breaks down into two major language groups: Estonian and Russian. The latter group makes up about a third of the total population, and these two groups have totally different media consumption patterns. In this regard, these groups need to be observed separately, especially when tracking reach and share, in order to get a proper idea of the media market.

Estonians tend to watch local Estonian-language channels, whilst Russophones (by and large, this is a generalization) prefer channels that originate in Russia. This refers back to the fact that the Russian-speakers in Estonia (despite their actual nationality) in general represent the massive influx under the Soviet policy of population intermixing² (which could be called 'colonization'³). Before World War II, Estonia was a very homogeneous country in ethnic and national terms.⁴ This has also had an impact on the integration processes at large in the society, as well as on catering for the Russophones with Estonian media. 26% of those who do not speak Estonian consume only the media from Russia.⁵ National daily print media in Russian has disappeared; Russian-language ETV+ had gained a share of only 0.7% by the beginning of 2017, after 16 months of operations.⁶

The economic situation in Estonia has stabilized after a severe collapse in 2009. However, the economy is growing at a very slow pace – the gross domestic product (GDP) of Estonia increased 1.3% in the third quarter of 2016, if compared to the third quarter of the previous year.⁷

The political rule, in principle, has not varied over the last decades. Governments have been formed based on wide coalitions, and they have included liberals, conservatives and social democrats. This is also the current position, even though, during the recent government change (in November, 2016) the Liberal Party (the Reform Party) was replaced by another (the Center Party) – but they are both members of the Alliance of Liberals and Democrats for Europe (ALDE). As evaluated after the parliamentary elections in 2011, the situation remains broadly the same: “Ever since independence, the political left has been significantly weak. /.../ Estonia is beginning to resemble a classic left/right dominated party system, where socioeconomic issues of distribution and redistribution form the backbone of the political struggle./.../ Research furthermore shows that, over the years, Estonian parties have come to be increasingly regarded as public organizations rather than private interest groups. Hence, parties in Estonia have gained in public credibility. In combination with a media climate that likewise has changed to actually treating parties as collective organizations driven by ideas and some visions.”⁸

Estonia is a country run on liberal economic principles, in line with the EU. The media market has an oligopolistic character as it is tiny and thus cannot accommodate too many owners. In terms of the advertising expenditure breakdown, after Estonia regained its independence, newspapers were the most influential type of media. This changed in 2010⁹, and now television has bypassed the press. The share of the Internet in regard to advertising sales is growing rapidly. Still, due to the small size of the market, the total expenditure for advertising is not large (in 2015 it was 92.6 million EUR¹⁰). This constricts plurality and quality, especially when content is distributed by multinational companies (such as Google), which usually do not produce content themselves, but earn revenue from redistributing that of others¹¹.

2 Center for International Development and Conflict Management. (2006). Assessment for Russians in Estonia. Minorities At Risk Project. University of Maryland: College Park. Retrieved from <http://www.mar.umd.edu/assessment.asp?groupId=36601> (10 Dec 2016).

3 Kalekin-Fishman, D., Pitkanen, P. (Eds.) (2007). *Multiple Citizenship as a Challenge to European Nation-States*. Sense Publishers: Rotterdam/Taipei. p 215.

4 *Ibid.*

5 Leppik, M., Vihalemm, T. (2017). Venekeelse elanikkonna hargmaisus ja meediakasutus. [Transnationalism and media usage of the Russophone population] In P.Vihalemm et al (Eds) *Eesti ühiskond kiirenevas ajas. Uuringu Mina. Maailm. Meedia“ 2002–2014 tulemused* [Estonian society in accelerating time: change in habitation of Estonia in 2002-2014 based on results of the study Me. World. Media], Tartu: Tartu Ülikooli Kirjastus, pp. 591-619.

6 Data by Kantar Emor January 2017.

7 Statistics Estonia. (2016). *In the 3rd quarter, economic growth was driven by transportation, trade and the energy sector*. News release no 137 of 9 Dec 2016. Retrieved from: <https://www.stat.ee/news-release-2016-137>

8 Bennich-Björkman, L. (2011). Estonian Elections. Stability and consensus. In: *Balticworlds.com*. Retrieved from: <http://balticworlds.com/stability-and-consensus/> (10 Dec 2016).

9 Loit, U., & Siibak, A. (2013). *Mapping digital media: Estonia*. A report by the Open Society Foundations. Retrieved from <http://www.opensocietyfoundations.org/sites/default/files/mapping-digital-media-estonia-20130903.pdf> (accessed 5 Jan 2017), p. 67.

10 Data by Kantar Emor (released 5 May 2016).

11 See, e.g., Luik, H.H. (2015). Ajakirjanduse kuusnurk [Hexagon for journalism]. In Loit, U. (Ed.) *Akadeemiline ajakirjandusharidus 60* [Academic journalism education 60], vol. 2, p. 16; or Kõuts, R. (2016). Maakonnaleht ja omavalitsuse infoleht: “kõlvatu” konkurents? [County newspaper and the municipal gazette: an unfair competition?]. *Postimees*. 26 Oct.



As to the audiences, the daily time spent on watching TV and listening to radio has not changed in recent years (corresponding, respectively, to around 4h and 3h45).¹² Newspaper circulation figures have been dropping,¹³ and traditional newspaper reading has also declined. By 2015, the number of newspapers being read had halved since 2000, both for newspapers read regularly and those read occasionally.¹⁴ However, attention directed to news items has not disappeared, it is only that the traditional channel (print) has been replaced by another (Internet).¹⁵ The aggregated reach (paper and online) has even exhibited a slight growth since 2002.¹⁶ According to Statistics Estonia, almost 60% of the population used the Internet for media and cultural consumption. Among young people (up to 30 years), almost 100% use the Internet and they can be differentiated from each other only by the range of their skills.¹⁷

12 Retrieved from the data by Kantar Emor.

13 Based on data from the Estonian Newspaper Association, www.eall.ee.

14 Based on data collected by Kantar Emor.

15 Vihalemm, P. & R. Kõuts-Klemm. (2017). Meediakasutuse muutumine: internetiajastu saabumine [Change in media consumption: arrival of the internet era]. In P. Vihalemm et al. (Eds). *Eesti ühiskond kiirenevas ajas: elaviku muutumine Eestis 2002-2014 Mina. Maailm. Meedia tulemuste põhjal* [Estonian society in accelerating time: change in the habitation of Estonia in 2002-2014 based on the results of the study Me. World. Media], Tartu: Tartu Ülikooli Kirjastus.

16 Ibid.

17 Ragne Kõuts-Klemm, et al. (2017). Internetikasutus ja sotsiaalmeedia kasutus [Usage of the internet and social media]. In P. Vihalemm et al. (Eds). *Eesti ühiskond kiirenevas ajas: elaviku muutumine Eestis 2002-2014 Mina. Maailm. Meedia tulemuste põhjal* [Estonian society in accelerating time: change in the habitation of Estonia in 2002-2014 based on the results of the study Me. World. Media], Tartu: Tartu Ülikooli Kirjastus.



3. RESULTS FROM THE DATA COLLECTION: ASSESSMENT OF THE RISKS TO MEDIA PLURALISM

The general strengths of the Estonian media policy formulation and implementation include recognising freedom of speech as one of the most important values in a democracy, and good legal regulation relating to access to information.

Since the beginning of the transitional period (after Soviet rule) at the beginning of the 1990s, Estonian media policy has been very liberal and market-oriented: media organizations have enjoyed full freedom of expression. However, since 2009 the Courts have started to argue more about the liability of professional content providers in cases where an individual has suffered severely.

In Estonia, cultural norms are influential and the general approach is rather to avoid legal over-regulation. There is no specific media law enforced in Estonia, except for the Media Services Act (formerly the Broadcasting Act) and the Estonian National Broadcasting Act. Basic values (safeguards) affecting media performance and the related actors have been embedded in the historical discursive institutionalism of the press, defining and enforcing good conduct as part of the national cultural heritage.¹⁸

While the resources available in this small media market are limited, and original news production is an expensive process, the future of professional journalism is one focal question in media policy that relates to the accessibility of the public to impartial and trustworthy information.

Regarding the social inclusiveness area of the Monitor, Estonia only has some of legal protection mechanisms in place. The laws enabling this kind of inclusiveness stand, either directly or indirectly, as the Constitution of Estonia grants equal rights, regardless the gender, and everyone's right to publish. In Estonia there are no regulatory instruments to define who may practice journalism.

The Estonian Public Broadcasting Act defines, among the functions of PSB, the transmission of programmes which, within the limits of the possibilities of Public Broadcasting, meet the information needs of all sections of the population, including minorities. However, the tricky part of this provision is “within the limits of the possibilities”, the possibilities do not always appear to be sufficient for the goal. As most minorities in Estonia speak either Russian or Estonian, here is thus no urgent necessity to broadcast in more languages. The potential audiences are too small to be reached in traditional mood over the airwaves. Still, Radio 4¹⁹ of the PSB runs special broadcasts in several minority languages (Georgian, Azerbaijani, Ukrainian, Armenian, Chuvashi, etc.), and the Estonian language channel (*Viker- raadio*) also carries news in several local dialects. According to the PSB Annual Report for 2015, in 2015 there were 90 hours of programming in other languages, besides Russian, on Radio 4.

Several indicators of MPM exhibit that in the field of local media and community involvement, Estonia formally faces high risk – there are no active support measures for such media and no law addresses this issue. This, of course, is a discussible topic, as Estonia itself, by its territory (45,000 km²) and population (1.3 million), is “a locality”, even on the European scale. Secondly, the country does not go in for awarding subsidies in most areas, including agriculture. From this point of view, the government thus refrains from paying any subsidies to the media, to avoid influencing media performance. On the other hand, local media operate with such small audiences that they need supportive media policies, which do not necessarily need to be pecuniary. In that regard, any supportive measures for local and community media are absent. Instead of investing in an independent regional press, most municipalities tend to issue their own gazettes, resembling journalistic newspapers, which often also sell advertising. The Newspaper Association strongly opposes this feature as it distorts the advertising market and blurs the meaning of “free media”, and the Association has put this question to the state authorities.²⁰

Several issues constituting risks for media pluralism are thus derived, either directly or indirectly, from the small size of the overall market. Legal, or even subsidiary measures alone, do not necessarily expand the premisses for media pluralism.

18 Cf. Harro-Loit, H.; Loit, U. (2014). The Role of Professional Journalism in the 'Small' Estonian Democracy. In: Psychogiopoulou, E. (Ed.). *Media Policies Revisited. The Challenge for Media Freedom and Independence* (206–219). Hampshire: Palgrave Macmillan, pp. 213–218.

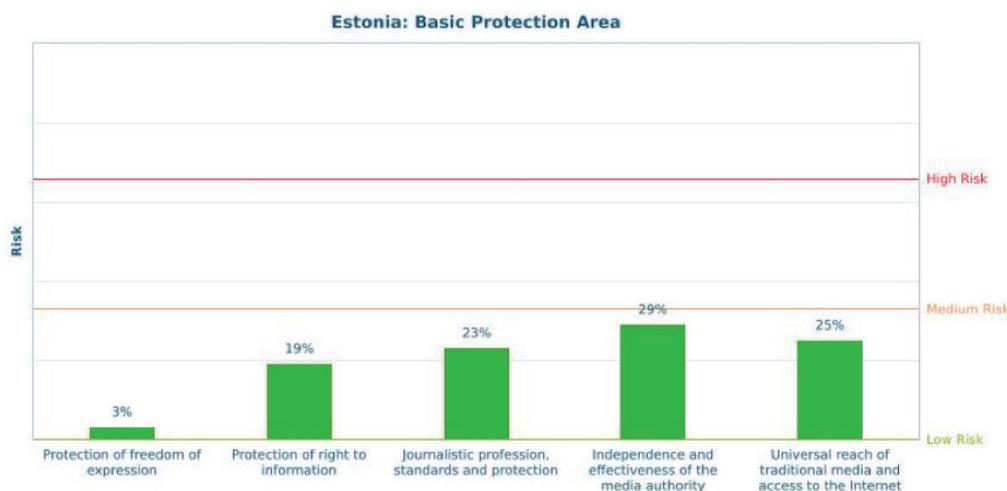
19 The most listened to radio channel among the Russophones.

20 Postimees. (2016). Juhtkiri: võimu propaganda pole ajakirjandus. [Editorial: propaganda of powers is not journalism] *Postimees*, 22 Oct.



3.1 BASIC PROTECTION (20% - LOW RISK)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the independence and effectiveness of the national regulatory bodies that have competence to regulate the media sector; and the reach of traditional media and access to the Internet.



In Estonia, the protection of freedom of expression is both a legal and a cultural feature²¹, and in that way it is similar to the Nordic countries. For instance, as in Denmark, with the Mohammed cartoons in *Jyllands-Posten*, the freedom of expression is assumed to be embedded in the cultural perception of public communication, regardless of the validity of that expression. The small size of the society, together with unfortunate recollections of the country's experiences in the 20th century, makes any threat against the freedom of expression (incl. press freedom) emergent by means of “whistleblowing” or otherwise. The journalistic profession and its standards function mainly under economic pressure, which is unlike the situation in several Central and Eastern European countries, and journalists do not face political instrumentalization.

According to the Freedom of the Net Report 2016:

“Estonia continues to be one of the most digitally advanced countries in the world. In June 2015, the European Court of Human Rights upheld an Estonian Supreme Court decision from 2009, stating that content hosts may be held legally liable for third-party comments made on their websites. Since then, major online media publications have removed the functionality for anonymous comments on their websites and have continued active moderation to limit hate speech.”²²

From the academic viewpoint, Estonia has put in place Court ruling(s)²³ which make a media organization liable for the users' comments that are added to the journalistic pieces in the publisher's offer, since part of its business plan does not represent a disproportionate infringement of the freedom of speech but, rather, enables it to cleanse the forum for sound discussion and thus avoids unlawful comments.²⁴ This case has changed the entire paradigm of net comments in Estonia – folk tend to post comments under registered usernames and the offensive comments are taken down at the earliest possible instant.

21 As referred to in Footnote 18, the basic values (safeguards) affecting media performance, and the related actors, have been embedded in historical discursive institutionalism of the press, which defines and enforces good conduct as part of the national cultural heritage.

22 <https://freedomhouse.org/report/freedom-net/2016/estonia>

23 The Ruling of the Supreme Court of Estonia in the case *V. Leedo vs. Delfi*, no 3-2-1-43-09 (10 June 2009); and the Ruling by the Grand Chamber of the European Court of Human Rights on the case *Delfi AS vs. Estonia*, no 64669/09 (16 June 2015).

24 Nõmper, A., Käerdi, M. (2015). Sõnavabadusest ja vihakõnest *Leedo vs. Delfi* juhtumi valguses [Freedom of expression and hate speech in the light of the case *Leedo vs. Delfi*], in *Blog of the Estonian Bar Association*. Available at <https://www.advokatuur.ee/est/blogi.n/sonavabadusest-ja-vihakonest-leedo-vs--delfi-juhtumi-valguses> (accessed in 15 March 2017).



The situation with relation to protection of access to information stands at low risk. Like the principle of freedom of speech, accessibility to public information is also granted by an extensive Article in the Constitution. Most public information is accessible online at any time chosen. In other cases, the public authority has to comply with a request for information under the Public Information Act. The media have no exclusive rights in regard to accessing public information.

The state of the journalistic profession, its standards and protection, comprise a low risk for media pluralism issues. In Estonia there are no regulatory instruments to define who may practice journalism. There is no legal necessity for journalists to register themselves with state authorities. Print and online publications need not register, or even inform the authorities, about their intention to release any content. As stated above, the safeguards have been embedded in the historical discursive institutionalism of the press, which defines and enforces good conduct as part of the national cultural heritage. However, the Estonian Journalists' Union has a low impact on journalism related issues, including the guaranteeing of editorial independence. There are two main reasons for this. The most influential media organisation in Estonia is the Newspaper Association which, in many respects, operates as a non-governmental agency to protect general media freedom and journalistic standards. Nevertheless, it is predominantly an association, representing publishers. The Estonian Journalists' Union, although it was established in 1919, for a number of active journalists still largely represents the Soviet legacy, and the EJU has failed to abandon this perception. This is combined with the Estonians' disbelief in trade unions, as such, which also largely tends to call up memories of Soviet institutionalism. No attacks against journalists, either physically or digitally, are known. There is no data available on irregularities in payments but journalists have been reporting on their job insecurity²⁵. Protection of journalistic sources is implemented under an Article of the Media Services Act, which, exceptionally, extends to all media.

The print and online publications need not to register or even to inform the authorities about intention to release any content. Consequently, there is no media authority to scrutinize their performance. The only field in which licensing exists is broadcasting (TV and radio, both streaming and on-demand) under the Media Services Act. For a long time, the media policy design and licensing/superintendence of the broadcasters was executed by the Ministry of Culture. Under the testing recommendation by the EU institutions, licensing and superintendence was passed over to Technical Regulation (until recently this was also translated as the 'Surveillance') Authority (TRA)) who performs the role of "an independent regulator". In fact, TRA is a wider agency operating in the administrative area of the Ministry of Economic Affairs and Communications which implements the national economic policy through the improvement of safety, organising the expedient use of limited resources and increasing the reliability of products in the manufacturing environments, industrial equipment, railway and electronic communication. Media surveillance is thus a small section of their overall operations, of which little is reflected in annual reports, and about which there is very little information on the internet. We can thus say²⁶ that the operations of the TRA in the field of licensing/superintendence of broadcasters are non-transparent. The professional understanding of these matters is only now evolving. The scope of the field often falls between the administrative areas of the two ministries, thus not allowing the implementation of an integral approach.

As to the universal reach of the traditional media and access to the internet, almost the entire population has been covered with an accessible signal for public radio and TV, as well as broadband connection (including the rural areas). The average Internet connection speed in Estonia is 12 Mbps.²⁷

The Electronic Communications Act sets neutrality in relation to services and technology as a root principle. In practice, no obstruction has been observed. "No questioning of this keystone has ever emerged, presumably for several reasons: free Internet access is considered as a human right, the Internet service providers themselves do not produce content, and the overall market is very small."²⁸

25 Niinepuu, J. (2012). *Ajakirjanike autonoomiat mõjutavad tegurid*. [Factors affecting the Autonomy of Estonian journalists], Master's Thesis, University of Tartu.

26 In part, this is based on the personal observations of the authors in regard of the current report.

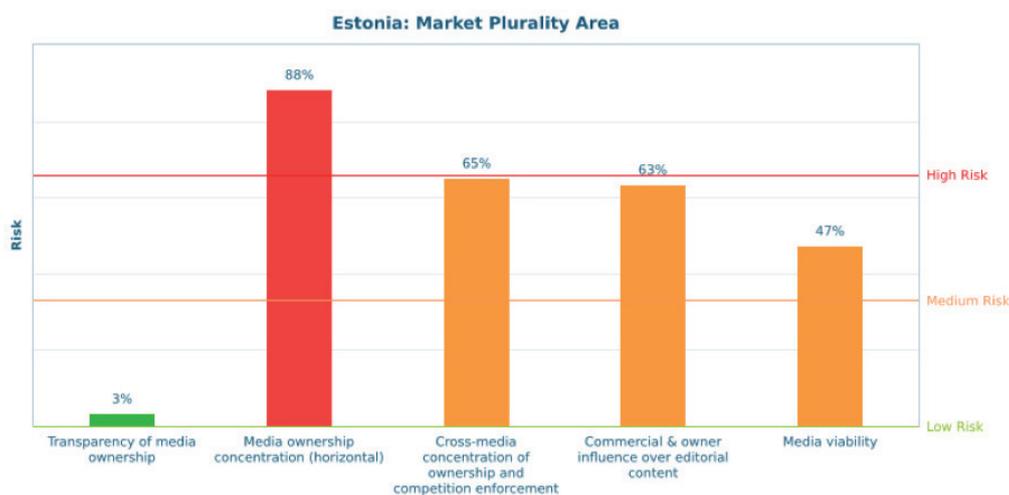
27 Data from the content distribution management company Akamai

28 Harro-Loit, H.; Loit, U. (2011). *Mediadem Case study report*. Does media policy promote media freedom and independence? The case of Estonia. Available at <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Estonia.pdf> (accessed 15 March 2017).



3.2 MARKET PLURALITY (53% - MEDIUM RISK)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the existence and effectiveness of regulatory safeguards to prevent horizontal and cross-media concentration of ownership and the role of competition enforcement and State aid control in protecting media pluralism. Moreover, they seek to evaluate the viability of the media market under examination as well as whether and if so, to what extent commercial forces, including media owners and advertisers, influence editorial decision-making.



The market plurality area shows the highest risks in overall media pluralism, according to the MPM. At least in part, this derives from the small size of the market and its potential audiences which are divided into two diverse groups (Estonian speakers and Russophones). The economic feasibility and profit-earning capacity sets limits on the variety of outlets, especially in regard to restraining the niche ones.

The lowest risk occurs with transparency of media ownership. Media ownership data is available in the Commercial Register and in the Central Register of Securities. The Commercial Code obligates every legal entity to submit certain data²⁹ about themselves to the Commercial Register, which, under the same law, puts the information in the public domain. Everyone can make e-inquiries to the Register by Internet and can get the data immediately. The data about the shares in the undertakings are kept with the Central Register of Securities.

Two media corporations dominate the whole media market: the Ekspress Group and the Postimees Group. The Bonnier Group owns the national business daily *Äripäev*. The Postimees Group possesses the biggest daily (*Postimees*), a television channel (Kanal 2), a group of radio stations (Trio LSL Ltd.), a group of local newspapers and the only news agency, BNS. The Ekspress Group owns two dailies (of which one is a tabloid), two large weeklies and a group of magazines. Radio and television are missing from their portfolio. The other large national television channel (TV3) was owned by MTG until the middle of March, 2017, when it was sold to the US investment company Providence Equity, together with all of MTG's Baltic operations. Altogether, including the PSB, there are three larger television operators in Estonia.

As the media market is largely divided between two corporations and the public service media, the owners' influence on the job market is remarkable. In 2013, the Norwegian company, Schibsted, sold Postimees and the new Estonian owner interfered in the appointment of the chief editor which, as far as we know, had never previously been the case. This indicates that a national owner, as such, does not necessarily safeguard the autonomy of the editorial staff. This interference, however, has been episodic, with no further consequences, as it was not tolerated by the professional community nor by the general public.³⁰

From the point-of-view of media viability, concentration of media ownership is somewhat inevitable in a tiny market.

29 E.g., business name, registration code, board members, location, contacts, foundation articles, annual reports, bankruptcy facts, etc.

30 See, e.g., Eilat, T. (2015). Rõtov Postimehe olukorras: sellist fopaad poleks Linnamäelt oodanud. [Rõtov: Would not have expected such a faux pas from Linnamäe], News portal of the PSM, 4 Oct, available at <http://uudised.err.ee/v/majandus/775c8898-e562-4ebd-a8af-92951fb0f4e3/rotov-postimehe-olukorras-sellist-fopaad-poleks-linnamaelt-oodanud> (accessed 25 Jan 2017)



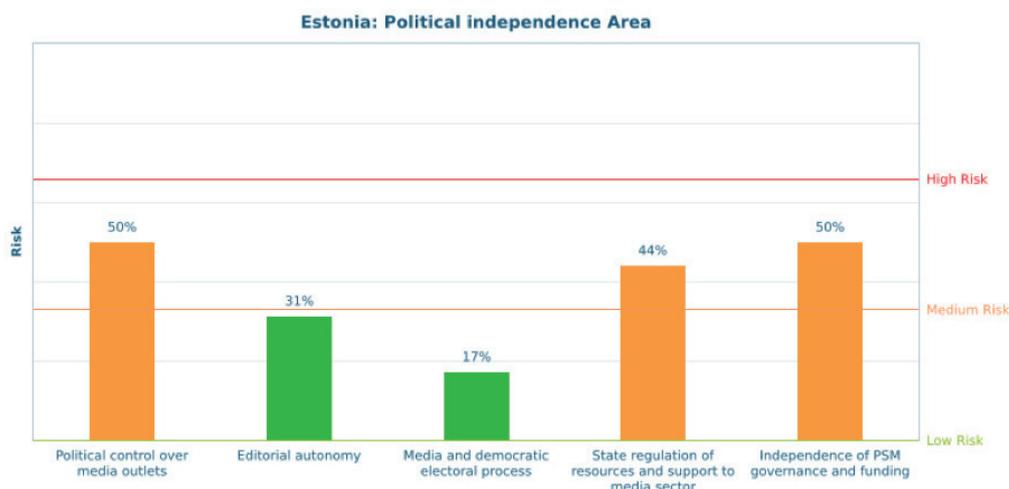
Estonia had a daily newspaper market with seven titles in the late 1990's – all of which were running at a loss. The oligopolistic system, with two main daily papers and two major television channels and other very small occurrences enables media businesses to operate without ruinous losses. In this regard, the MPM tool's measurement cannot be applied here mechanically, as deficit ventures cannot produce pluralism of content, at least in the long run. In addition, there would be little audience for such a variety, and either. Independent operation or the public service media would minimize the hazard by distorting or narrowing the reality of the coverage in the media.

Media viability, with regard to advertising turnover, shows endurance primarily in the field of online media (In 2015 vs. 2014 online advertising turnover grew by 16.3%), while other types of media (print, television, radio) have experienced a relative standstill, and their share in the total volume of the advertising turnover is slowly fading. The largest portion of the total advertising income went to television (27.4%). Online advertising is now in the third position (18.6%), just after newspapers (19.3%).³¹ To a great extent, the online business is run by the newspaper publishers, thus, in aggregate, for those particular companies it tends to be a reallocation of the sources of income, rather than new income. Radio shows relative endurance in all measurable counts (audience share, listening time, trust in, percentage in the total breakdown of the advertising turnover, etc.) and proves to be more viable than the average in Europe. However, the absolute figure for the entire advertising market is unsound: 92.6 million Euros.

The State offers no subsidies to media organizations, other than PSM, with the exception of cultural popular science, and children's outlets that are published by a state-established foundation (SA Kultuurileht). There is no evidence of indirect subsidies for media, including "state advertising" in the form in which it is known in many parts of Europe, expressing favouritism towards certain outlets. There are as yet no visible signs of media organizations, under the shifting business models in the development of initiatives, that would ensure access to alternative sources of revenue other than the traditional revenue streams.

3.3 POLITICAL INDEPENDENCE (38% - MEDIUM RISK)

The Political Independence indicators assess the existence and effectiveness of regulatory safeguards against political bias and political control over the media outlets, news agencies and distribution networks. They are also concerned with the existence and effectiveness of self-regulation in ensuring editorial independence. Moreover, they seek to evaluate the influence of the State (and, more generally, of political power) on the functioning of the media market and the independence of public service media.



There is no direct political control of national media outlets³². The medium risk in scoring derives from the fact that there are few legal safeguards written into the laws. This is another peculiarity in the Estonian media policy - the safeguards have been embedded in a historical discursive institutionalism of the press that defines and enforces good conduct as part of the national cultural heritage.³³ Some local news outlets (municipal gazettes issued by municipal

31 Data of 2015 by Kantar Emor. <http://www.emor.ee/eesti-meediareklaamituru-2015-aasta-kaive-oli-9264-miljonit-eurot/> (retrieved 25 Jan 2017).

32 <http://www.worldsofjournalism.org/>

33 Cf. Harro-Loit, H.; Loit, U. (2014). The Role of Professional Journalism in the 'Small' Estonian Democracy. In: Psychogiopoulou, E.



governments) can be characterized as being politically influenced. This includes the municipal newspapers of the capital city (Tallinn), and the nationally distributed Tallinn TV, also run by the city government, which have often been politically engaged against the national government, as the majority rule in the capital city has been executed by a sole party (the Centrist Party) which, so far, on the national level, has been in opposition.³⁴

The majority of media organizations value editorial autonomy. According to the results of the survey “Worlds of Journalism”, about 70-80% journalists believe they are autonomous in different aspects of reporting. The MPM indicator scores low risk here. The Code of Ethics of the Estonian Press promotes editorial independence (Section 2). Most of the Estonian newspapers and TV channels have accepted the Code of Ethics. Even though the Code was adopted 20 years ago, it can still be adaptable for the online media too. Only one national daily, *Äripäev* (Business Day), has its own code of ethics, due to the specific nature of its field of coverage. This code of ethics also focuses on independence and autonomy, even more than the general code does.

The national Code is enforced by two press councils, of which one is affiliated to the Newspaper Association and the other to the Journalists’ Union and the Association of Media Educators. This richness of press councils derives from a conflict 15 years ago, but today it provides competitive viewpoints and, as a result, improves the self-regulatory discourse. The working self-regulation has prevented the State from interfering with media performance, even when it would have been eligible to do so, for example, to protect the public’s interest, or to protect the rights of an individual.

The indicator on ‘Media and the democratic electoral process scores the lowest risk in this area (17%). The media usually cover elections in a balanced way. Under the law, the broadcasting organizations are obliged to provide airtime to political parties on an equal basis. There is some more detailed regulation for the PSM but, as a rule, a media organization sets the rules itself. Print and online media base it on self-regulation.

The public broadcasting (PSM) is financed from the state budget and no advertising is allowed to be broadcast. It has been a problem for years that financing for the PSM is insufficient and that it is not predictable for a longer period of time, as it is allocated annually. This could even be perceived as being political pressure on the PSM. Other media, with the exception of some cultural papers/magazines, are not financed by the state. There is also no large-scale state advertising to politically influence the media. There are some public announcement campaigns that are set up to grab the general public’s attention on nationally important issues (traffic safety, etc.) the media plans of which are made under the procedures envisaged by the Public Procurement Act.³⁵ There is no evidence to prove that this system may have been misused to influence the media’s performance for political purposes.

The PSM council is appointed by the parliament and consists of one representative of each political party with representation in parliament, and four members from among the acknowledged experts in Public Broadcasting. In 2016, in total, there were 10 members of the Council. Under the law, the Council operates independently.

(Ed.). *Media Policies Revisited. The Challenge for Media Freedom and Independence* (206–219). Basingstoke: Palgrave Macmillan, pp. 213–218.

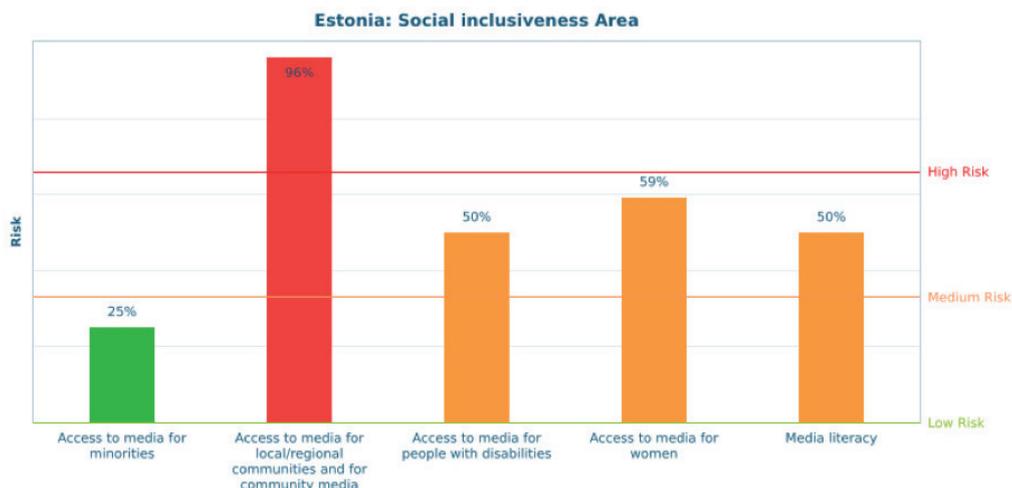
34 Which is expected to end, as, at the end of 2016, a new Chair was elected for the Party to replace the previous one, and the Party entered the coalition in the parliament and holds the post of the Premier.

35 Media buying under the Public Procurement Act definitely provides traceable data, such as the transparency of public spending. However, the media campaigns, as a rule, are carried out on a small-scale and are not recorded in any consolidated register. As data collection over such a range, from all state institutions’ financial reports does not fit into the scope of the MPM, it has not been carried out during this research, and the indicator on “state advertising being distributed to media outlets based on fair and transparent rules” has been tagged as “no data”. Consequently, the indicator on State regulation of resources and support for the media sector scores a medium risk.



3.4 SOCIAL INCLUSIVENESS (56% - MEDIUM RISK)

The Social Inclusiveness indicators are concerned with access to media by various groups in society. The indicators assess regulatory and policy safeguards for community media, and for access to media by minorities, local and regional communities, women and people with disabilities. In addition to access to media by specific groups, the media literacy context is important for the state of media pluralism. The Social Inclusiveness area therefore also examines the country's media literacy environment, as well as the digital skills of the overall population.



In relation to the social inclusiveness area of the Monitor, Estonia has only some of the legal protection mechanisms in place. The laws that enable this type of inclusiveness, stand, either directly or indirectly, as the Constitution of Estonia grants equal rights regardless of gender, and everyone has the right to publish.

The indicator on the Access to media for minorities scores low risk (25%). The Estonian Public Broadcasting Act defines, among the functions of the PSB, the transmission of programmes which, within the limits of the possibilities of Public Broadcasting, meet the information needs of all sectors of the population, including minorities. This issue has been elaborated above (Section 3). Considering that a large proportion of Russophones – who make up around a quarter of the entire population – prefer to follow the media from Russia, especially TV, the overall standing is not too bad. This generalization, of course, would not be fully true, as the media consumption patterns for Russophones are fragmented, since some of them follow the media in a more transnational way than others.³⁶ The PSB's Radio 4 is the most listened to radio station by Russophones. Lately, in 2015, a new TV channel (ETV+) was launched in Russian by the PSB. This still needs to reach the audiences but, at the same time, it illustrates the media preferences of Russophones – the share of the Russia-originated PBK is some 10 times higher than that of ETV+.³⁷

The indicator on the Access to media for local/regional communities and for community media scores very high risk (96%). The regional and local media in Estonia is meagre. The country itself is like a locality (a suburb of a larger city), both by territory and population (1.3 million), which affects the sustainability of local media. The local newspapers, even though they are the most vital branch of local media, are considerably weaker than the national print media, both economically and journalistically. For instance, in 2015 the sales revenue of local newspapers was just 18% of the total industry volume.³⁸ The newspapers depend greatly on personal relationships within the small communities and are, thus, less sharp and investigative.³⁹ Over time, the number of local radio stations has decreased to five, of which only two provide a full journalistic programme – others only carry some of its features. Local terrestrial television ceased to exist after the switch over to digital broadcasting, due to the remaking of the national radio frequency plan, which allocated no multiplexes to local broadcasting. Few TV programmes exist in small local networks, about which not

36 Leppik, M., Vihalemm, T. (2017). Venekeelse elanikkonna hargmaisus ja meediakasutus. [Transnationalism and media usage of the Russophone population] In P.Vihalemm et al (Eds) *Eesti ühiskond kiirenevas ajas. Uuringu „Mina. Maailm. Meedia“ 2002–2014 tulemused* [Estonian society in accelerating time: change in habitation of Estonia in 2002-2014 based on results of the study Me. World. Media], Tartu: Tartu Ülikooli Kirjastus, pp. 591-619.

37 Data of December 2016 by Kantar Emor. Shares of the average audience.

38 Calculated upon data from the Estonian Newspaper Association.

39 Schmidt, A. (2011). *Eesti neliteist maakonnalehte aastal 2011*. [Fourteen county newspapers of Estonia in 2011], Master's thesis. Tartu: University of Tartu.



much is known. The foremost reason for lacking plurality in local media is the absence of resources (both financial and labour) and small local populations.

The indicator on the Access to media for people with disabilities scores medium risk (50%). The rules about catering for the disabled audiences with hearing and visual impairments exist (e.g., by the Media Services Act), but implementation is poor. Only the PSB provides subtitles for selected programme reruns and enables a synthesized voiceover for the TV output. Private media does not do this.. As the experts for the MPM from the federations for the deaf and the blind have evaluated in this respect The general picture is thus chaotic and insufficient, but might be better if there were at least reruns and catch-up services (medium risk). Voice descriptions are absent both in PSB and online services. Even though there is a daily newscast in sign language on ETV2, the experts in this field deeply miss Estonian subtitles and sign-language translations in daily topical broadcasts on politics and current issues.

The indicator on Access to media for women scores medium risk (59%). As to the gender equality indicators, we can say that the law ensures the equal treatment of men and women and the promotion of the equality of men and women as a fundamental human right and for the public good in all areas of social life. Still, as the Gender Equality and Equal Treatment Commissioner, Liisa Pakosta, put it in an interview for the MPM: “The gender-based segregation among the employees of media organisations, and also the probable horizontal segregation and the probable gender pay gap are not insistent against the general background in Estonia.” As to the employment of women, the percentage of female journalism workers is, in general, somewhat higher than that of males (58.4% of women).⁴⁰ Assessing, for example, the management of the PSB, all of the members of the Board are men, but the heads of particular channels are women (seven out of eight). The guidelines for balanced and neutral programming of the PSB include gender balance requirements in regard to the output.

The indicator on Media literacy scores medium risk (50%). There is no strategic policy document on media literacy in Estonia. Media literacy is included in the national curriculum of formal education as a cross-curricular theme, “Information environment”, that should be applied at all school levels. In addition, two courses in upper high school (“Media and its influence” and “Practical Estonian language 2, 35 lessons each) are mandatory. Schools may include voluntary media courses in the school’s curriculum. There are some NGOs to hold short workshops for the interested children and youth all over Estonia.

40 Harro-Loit, H., Lauk, E. (2016). Journalists in Estonia. In *Worlds of Journalism Study*. Retrieved from <http://www.worldsofjournalism.org/country-reports/> (accessed 15 March 2007).



4. CONCLUSIONS

Estonia has a stable and well-consolidated democracy where the freedom of speech and freedom of expression is strongly protected, both legally and culturally. The small size of the country enables it to be flexible in terms of innovation, new technologies, etc., but also includes risks: few choices, e.g., media concentration, comparatively few jobs for journalists, a small number of experts, weak local media. The latter constitutes the highest risk in relation to Estonia.

The MPM tool revealed comparatively low risk in the basic protection area, as well as in the indicators for transparency of media ownership, editorial autonomy, media within the democratic electoral process, and access to media for minorities.

As iterated, the Estonian media policy includes a distinction – the safeguards have been embedded in the historical discursive institutionalism of the press, which defines and enforces good conduct as part of the national cultural heritage. Not all the safeguards have thus been written into laws, as these are self-evident and are obeyed without objection by all players. To keep it and to advance value clarification, the media industry would need special and active support from the public, the State, and the profession itself. Several challenges face Estonian media performance – such as the decreasing financial resources for journalistic content production, recent uncommon practices of personnel management (owners being involved in this, which may endanger the editorial autonomy, although this occurred after the current MPM check-up), weak local radio, and a generally increasing imbalance between the capital and the regions, the increasing hybridization of news media and infotainment with commercial text, etc. These issues ought to be put on the political agenda.

Given that, so far, no media policy as a public agreement has ever been formulated, and the industry has been happy that the State does not interfere, the new challenges, however, would empower the composition of a national news media and communication strategy document with which to face the global changes in the field. These ideas are in the very initial stages, but they intend to provide an elaborate policy for retaining professional journalists as information processors and as society's watchdogs. Involving various players (media educators, the State, industry, cultural institutions), the plan is to institute a foundation providing grants for individual journalists in order to promote personal development and, thus, to advance the quality of journalistic output.

ANNEXE 1. COUNTRY TEAM

The Country team is composed of one or more national researchers that carried out the data collection and authored the country report.

First name	Last name	Position	Institution	MPM2016 CT Leader
Halliki	Harro-Loit	Professor in journalism	University of Tartu	✓
Urmas	Loit	Lecturer in journalism	University of Tartu	



ANNEXE 2. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and experience in the field of media. The role of the Group of Experts was to review especially sensitive/subjective evaluations drafted by the Country Team in order to maximize the objectivity of the replies given, ensuring the accuracy of the final results.

F i r s t name	Last name	Position	Institution
Kadri	Ugur	Lecturer in interpersonal and educational communication	University of Tartu
Triin	Vihalemm	Professor in Communication	University of Tartu
Judith	Strömpl	Associate Professor in Social Policy	University of Tartu
Liisa	Pakosta	Gender Equality and Equal Treatment Commissioner	Independent high official
Tiit	Papp	Chairman	Estonian Association of the Deaf
Jakob	Rosin	Board member	Estonian Federation of the Blind
Monica	Lõvi	Board member	Estonian Federation of the Blind
Helle	Tiikmaa	Vice Chair of the Board	Estonian Association of Journalists
Ragne	Kõuts-Klemm	Lecturer in Sociology of Journalism	University of Tartu
Mati	Kaalep	Adviser of AV Affairs	Ministry of Culture





Addendum 2

SEIRERAPORT [MONITORING REPORT]

by

Loit, U., 2012

Translation into English. (9 pages). Manuscript, Tartu.

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EUROPEAN
COMMISSION



SEVENTH FRAMEWORK
PROGRAMME



MONITORING REPORT

Russkoe Radio Tartu

Tartu 101,2 MHz

Translated from Estonian

03–05 November 2012

This monitoring report is the result of a request by the Institute of Journalism and Communication at the University of Tartu, within the Mediadem¹ project. The report concerns the broadcasting activities of the radio programme “Russkoe Radio Tartu”² operated by AS Taevaaradio on a random sample of three successive days comprising two weekend days.

The monitoring occurred in November 2012 on

Saturday 3rd

Sunday 4th

Monday 5th.

Objective

The objective of this monitoring was to examine the content structure of the broadcasted programme to establish its compliance with the requirements of the Media Services Act (MeTS) and the activity licence.

The 2012 monitoring was a follow-up for monitoring programmes conducted on 12-14 May 2011 and 23 May to 05 June 2011. The latter was ordered by the Ministry of Culture. Both had detected that there was no local content for local (Tartu city and area) listeners. Also, there were problems with compliance with the news quota on weekends.

The monitoring established the quantity of the content mix concurred with the minimum quota as prescribed by the law or the activity licence. The monitoring report does not provide qualitative observation, even though it contains remarks about the general impressions about the programme. This means that although the total volume of news output has been measured, its quality has not been analyzed as far as any news criteria, such a professional performance, or the target audience’s expectations.

Programme provisions

The MeTS, Art 8, Subsection 1, obligates on an equal basis, all radio and television service providers to produce news for at least five percent of the daily transmission time. As *Russkoe Radio Tartu* is daily on air for 24 hours, the legal minimum volume of news for the programme is 72 minutes per day. The law specifies that television and radio service providers have to transmit self-produced news programmes.

The local³ activity licence issued under the Directive by the Minister of Culture No 1.1-3/33 of 26.01.2010 stipulates that the programme needs to continue daily for at least 24 hours (168 hours weekly) and 20 percent of the daytime (from 7.00 to 20.00) programming must constitute verbal (talk) broadcasts. The daytime programme must

¹ *European Media Policies Revisited: Valuing and Reclaiming Free and Independent Media in Contemporary Democratic Systems*, European Union grant FP7-SSH-2009-A no. 244365. See <http://www.mediadem.eliamep.gr/project/summary/>

² On the activity licence, the name occurs as *Russkoje Radio* (in the [Estonian] transcription). The media organization itself prefers transliteration: *Russkoe Radio*, e.g. in its web address <http://www.russkoeradio.fm/live/ee/>.

³ According to MeTS, Art 63, Subsection 4, reclassified ‘local’ as ‘regional’ because the new classification did not provide ‘local’ activity licences for either radio or television. At the same time, the obligations to operate a local programme remained.

be produced (or commissioned) by the service provider, but may include programmes co-produced with other television and radio service providers.

The activity licence conditions stipulate that the programme needs to cover local life, but the licence does not set any quantitative indicators. The licence conditions neither define the meaning of “local” nor address the ways of how to cover local life.

The activity licence imposes a programming obligation to include works of Estonian authors for 20 percent of the daily volume of the programme. This licence provision has not been monitored, as it was not requested.

Advertising volumes, set by MeTS Art 29 Subsection 1, limited to 12 minutes per hour have been analysed and presented separately, as the law enables advertising to be monitored as either part of a verbal broadcast or extraneous to it.

Methodology

The monitoring listeners were paired and rostered to follow a set schedule. During daytime broadcasting hours, the monitoring pairs listened, with deliberate disinterest, to the programme in real time on air at a location within signal range of Tartu’s transmitter. Listening shifts lasted for 4-6 hours with 15 minutes overlapping between the shifts. The nighttime programme was monitored with the help of a recording. The monitors filled in data forms noting the timing of the beginning and end of any verbal episode and, if possible, the classification of the talk. Using two simultaneous listeners adds validity to the monitoring, eliminating possible human errors.

Throughout each 24-hour period of day and night, 60-minute long recordings (in MP3 format) were made of the programme using *Loop Recorder Pro 2.06* software. The software registered the start and end time of each recording as well as the date and, thus, provided them with a broadcasting timeline. The recordings have been attached to the monitoring report.⁴

The looped recording of the programme enabled the compiler of the final report to solve any unclear issues made in the data forms. During this catch-up listening, the compiler of the final report classified the type of talk noted by the listeners and measured their portions of local contents and the news.

Results

On all the three dates, Russkoe Radio Tartu broadcast for 24 continuous hours. The active hosted programming started and ended at 06.00 and 20.00 (Friday); 09.00 and 03.00 (Saturday) and 09.00 and 19.00 (Sunday).

Analysis of the programme schedule combined with the duration of the broadcasts (hour, minutes and seconds) as well as the date recordings enabled the drawing up of a Table displaying the duration of each ‘talk’ episode, its categorization (talk, news, etc.) and its content attributes. A single episode can fit into various content parameters each reflecting the duration of the certain parameter. Therefore, in regards to certain episodes, the duration of different parameters may vary.

⁴ Not annexed to this translation.

Next, the programme content was analyzed. Aggregate volumes were given hourly, daily and per time interval from 7.00 to 20.00, as regards to the latter, there has been set a minimum requirement in re talk and an obligation to transmit original programming.

Paper and digital (Excel) copies of the results of the programme monitoring were submitted to the subscriber, the latter to enable further analyses.

Talk component in the programme

The study defined 'talk' as any verbal broadcast, with or without background music, which has informative or artistic content, and which does not appear as an integral part of a music broadcast. In the case an integral audiowork (audiomontage, directed audiowork or any other entire audio composition) the duration was specified as 'talk' if the proportion of music in the conjunctive function did not exceed one third of the time and the music pieces did not appear in their entirety. Also, single sentences (time, announcements) were accounted for, as well as the longer promoting text clips about the programming and the radio stations (6 or more seconds). The talk definition did not include advertising.

The activity licence prescribes *Russkoe Radio Tartu* to perform talk for at least 20 percent of the output broadcasted during the daytime (from 07.00 to 20.00). On Monday 5th November 2012, *Russkoe Radio Tartu* produced talk broadcasts for 28.6 percent of the daytime output which corresponds to the licence requirements. If calculated against the day's 24-hour period, the talk component would have constituted 18.5 percent. Consequently, if the 20 percent quota stood for the 24-hour day (as it was before 2009), *Russkoe Radio Tartu* could only have met the requirement by adding the advertising volume.

On Saturday 3rd November and Sunday 4th November 2012, the active programme with a host started at 9.00. During the daytime (at 7.00-20.00) on Saturday, the talk component amounted to 20.3 percent of the total output volume which narrowly met the requirements. On Sunday daytime, the talk component amounted only to 16.7 percent of the total output. Even with adding the advertising volume (+2.4 percent) the talk component amounted to 19.1 percent which did not comply with the licence requirements.

There were no whole audio compositions transmitted on the given days in the programme of *Russkoe Radio Tartu*, except for promotional announcements of some broadcasts («Связи», «Хит-компот», the Saturday morning show). Beyond these clips, all the talk was broadcast from the studio in the form of news, announcements of the time and the programme, and interviews (by phone), including the listeners' call-ins.

Even though, there was no active programme during the night, the longer verbal promotional clips (e.g. broadcast frequencies across Estonia and the phone number of the radio's customer service) have been accounted as talk.

The proportion (h:m:s and %) of ‘talk’ in the output of *Russkoe Radio Tartu* on given days was as follows⁵:

<i>Talk</i>	at 7:00–20:00	24h
Sat, 3 Nov	2:38:41 20,3%	12,4%
Sun, 4 Nov	2:10:21 16,7%	9,4%
Mon, 5 Nov	3:42:47 28,6%	18,5%

On working days, the programme of *Russkoe Radio Tartu* was split into two key time zones: «Полный в перед!» (the morning show at 06.00–10.00) and the later day show (10.00–20.00). The latter included listeners’ greetings – «В добрый час» (at 13.00-14.00) and «Связи» (at 18.00-20.00).

The proportion of talk during the morning show was the largest for both time zones and ensured the daytime broadcast met the daytime requirement. In the morning show, talk reached 60 percent per hour (56 percent at weekends), compared to 12-20 percent for other hosted programmes. The proportion of talk was the highest during those hours when the listeners’ greetings were broadcast («В добрый час» and «Связи»).

On working days, the episodes of continuous talk lasted for 4-5 minutes (news bulletins) and 1-3 minutes (other informative episodes - mainly human interest items). Announcements by, and conversations amongst, the hosts between pieces of music lasted from 1-15 minutes.

On the two studied weekend days, the morning show «С утра пораньше!» lasted from 09.00 to 12.00. On Saturday, there were live hosts in shows like «Хит-компот» (12.00-14.00) and «Связи» (18.00-21.00) with the proportion of talk varying between 18 and 32 percent. During the rest of the day, the programme contained very little talk or was even automated (the proportion of talk during those hours were up to 9.2 percent (Saturday 3rd November) and 3.4 percent (Sunday 4th November). Although the host of the Saturday night show was on air until 3.00, the talk proportion was 1.7%. On Sunday, there was a live host for «Воскресные связи» (16.00-18.00) and «Русский шансон» (18.00-19.00), during which the talk proportion was 13-23 percent.

Advertising

The study defines advertising as commercial spots, as well as anything longer with commercial content and pertinent tagging (like commercial interviews and other forms of content marketing). This did not include the bumpers signifying the advertising sections. The advertising blocks, as a rule, ended with the radio’s promotional spot indicating its short service number 1331. The study does not discern as advertising the spots defined under MeTS Art. 28, subsection 9 – announcements in public interest and charity appeals.

During the study, advertising appeared as commercial spots and private notices (read out). Spots before and after the weather forecast have been classified as advertising with special placement.

⁵ The monitoring tables (Annex 1) provide also hourly data.

The trailers of various shows in the programme, the radio station idents and promotionals were not been considered to be advertising – but were classified as talk.

Also longer programme pieces with evident character of paid content but still without any corresponding note were not defined as advertising. Moreover, no such programme components were found in the output of *Russkoe Radio Tartu* during the study period, as there were also no labeled commercial interviews or any other content of that kind. Programme components resembling paid contents (various sponsor campaigns) which could not be verified as such by just listening to the programme, have not been included in the volume of advertising. During the morning show of Monday 5th November, the host did make some sponsorship announcements (about Paulig) either as spots or read out texts. As the sponsor must not make special promotional references to its goods or services, the information about Paulig can rather be classified as product placement ((MeTS, Art. 31) – whereby it is hard to distinguish the portion of it from the rest of the host's talk. The particular campaign would need specific analysis based on the definition of the contract object and invoice issued to the sponsor for any further specification.

During the monitored period, the total hourly volume of advertising extended to 5 minutes and 37 seconds. Usually, the hourly volume of advertising remained between 2-5 minutes. Consequently, the legal limit of advertising has been followed in the programme output. The proportion of advertising in the daytime programme volume was the largest on Monday (3.8%) and the smallest on Sunday (1.4%).

The study did not automatically include advertising in the portion of talk. This could be done if required by the state supervisory agency. When added, advertising would increase the talk portion by 3.4, 1.4 and 3.8 percentage points for Saturday, Sunday and Monday in the daytime period (07.00–20.00).

The news

The study defined 'news' as content containing news subject matter of conventional purport and with the format being correspondingly framed. A newscast lasts from the intro logo to the outro logo, and includes isolated news texts, news interviews, news on-the-spot reports and other news genres. The study did not include pieces of investigative journalism, discussions, feature interviews and purely entertaining talkshows as 'newscasts'. Still, an entertaining (light) piece could be regarded as 'news' if it had news value, like *impact, proximity, timeliness, prominence, recency, controversy, relevance, usefulness, human interest*, including framing. In such cases, the clearly distinguishable subjective supplementary comment has been excluded from total duration counting for news. In such cases, the volume of total talk may exceed the volume of news contents.

In the results, compact newscasts (bulletins or longer) have been separated from any other news format, to facilitate resolving any potential further clarification issues. Programme segments consisting of subsequent topical news (sports, news of Tallinn or Tartu, etc.) were classified as 'compact newscasts'. Among 'other news contents', for instance, isolated human-interest news items were outlined. This also applies to the weather forecasts, as these have been separated from the other news by a short commercial (in the morning show on working days), have been subtracted (after 10.00) or have been broadcast as individual segments when there were no news

bulletins (after 18.00, until the end of programme «СВЯЗИ»). On a few occasions, the weather forecast was included in the host's cue. During the three studied days, the volume of compact newscasts amounted to 0.8–4.6 percent of the daily programming, the other news contents daily raised the aggregate to 1.8 percent.

On Saturday 3rd November and Sunday 4th November, the number of compact newscast, covering the news highlights of the week amounted 0.8–1.6 percent, as part of the morning show (pre-recorded). The news content on these days was provided as individual human-interest news (including celebrity news from Russia) and the weather forecast (once an hour). The total daily volume of news was 3.3 percent (Saturday) and 1.6 percent (Sunday) – which were below the minimum stipulated by the law, as on either day the volume of news needed to be for at least 5 percent of the total daily output.

The following table provides the daily proportion of news in the total daily output. The detailed allotment by compact newscasts vs. other news contents can be observed in the annexed analytical tables of this report.

<i>News</i>	%
Sat, 3 Nov	3.3%
Sun, 4 Nov	1.6%
Mon, 5 Nov	5.4%

The weekday news bulletins were broadcast from 6.00–18.00 and the weather forecast (22 seconds on average) was provided once an hour until the end of «СВЯЗИ». In the weekday morning shows, the weather forecast appeared promptly after the news bulletin; at other times, it was presented separately at between 31-42 minutes past the the hour. Programme-hours containing only the news bulletin provided 3-5 minutes of news (up to 9 percent). Hours merely containing episodic news contents, provided up to 2 minutes of news (~3.4 percent). When these features combined, the news contents volume could exceed 13 percent, especially during the morning show. In the latter, the proportion of 'other' news contents was bigger than the average in the programme.

The results indicates that *Russkoe Radio Tartu* complied with the requirement that the news must be produced by the service provider. At the time of the study, the service provider operated its own news editorial office (служба новостей).

Overall, the news stream consisted predominantly of news with nationwide value and foreign news. The latter was updated throughout the day more frequently than the national news, in development. News from the coverage area were presented episodically and, for the most part, was broadly targeted at national listeners or at a narrow audience of those only in Tallinn.

Coverage of local life

Even though the activity licence conditions oblige *Russkoe Radio Tartu* to broadcast original programming covering local life, the licence fails to clearly define this commitment. As *Russkoe Radio* operates under a regional ('local' when issued) licence in Tartu, it would be reasonable to assume that local life content would be

covered, detached from the parent programme, with the corresponding news valuation and framing. This would necessitate at least local slots in the parent programme, not covering the Tartu topics among the general news flow of the parent programme (which appeared to be highly Tallinn-centered).

Generally, the identity for a local programme should form on of two basic dimensions:

- ◆ covering local topics
- ◆ covering what ever topics for the local audience.

The latter requires the radio programme to contextualize and consider the informational needs of the audience.

The study considered as ‘local’ any programme elements which explicitly addressed Tartu city or the county. As not all the “localness” can be measured (a slight indication in the text; a contextual approach, as call-in from Tartu passing on greetings), the measurement under this segment of the monitoring was not as reliable as other measures in this report and rather describes the general trends.

The licence conditions do not provide guidelines how (format, contents) and to what extent local life needs to be covered. As detected while listening, *Russkoe Radio Tartu* did not employ local programme slots (as did Radio Kuku for its Tartu output) – this is affirmed by the radio station web page: the entire programme is broadcast from the Tallinn studio.

Broadcasts covering local life are those which speak about local events, situation, people, problems, etc., irrespective of the genre, including the entertainment content. There was no reason for the study to consider as ‘local’ any topics related to the activity of state institutions located in Tartu (e.g., the Ministry of Education and Research) nor public institutions with nation-wide significance (e.g., the University of Tartu) nor naming Tartu in a list or in the football scores (FC Tammeka). Also, the notifications about the radio station’s operations have been excluded from the volume of local coverage.

The topics in the news bulletins and bulletin-like digests have been listed in the Annex 2. The topics, to any extent, related to Tartu have been marked. If possible, the duration has been added to it.

During the three days under scrutiny, the coverage related to Tartu was meagre. Tartu was listed in some news items, e.g., in the sports bulletin twice on Monday morning (results for FC Tammeka). This was complemented by a Tartu news bulletin on Monday at 06.40 («Тартуский вестник»; consisting of two odd news items) and a short segment on Tartu, which according to the intro jingle was supposed to appear daily but was not broadcast on Sunday. This segment lasted for 1-2 minutes and covered Tartu in the form of a travel guide (indicating that Juri Lotman and German Gess have been affiliated to the University of Tartu), but did not provide new information for the inhabitants of Tartu but listeners from outside the area. In total duration, Tartu coverage did not exceed 0.4 percent of the entire output, while on Sunday, there was no coverage at all.

<i>Local coverage</i>	Occasions	Total duration
Sat, 3 Nov	1	0:02:00
Sun, 4 Nov	–	–
Mon, 5 Nov	2	0:05:26

The broadcasted programme lacked any local identity whatsoever. Even though the ident of *Russkoe Radio Tartu* was on air for the required number of times (as a spot indicating the frequency in Tartu, 3-4 sec⁶), in another ident of *Russkoe Radio* listed Tartu among all spots of the nationwide coverage. Respectively, the buildup of the station's identity and attitudes determined Tartu as just one allotment of a large nationwide network. The programme-makers in Tallinn did not know the local context and could not assess its newsworthiness or relevance. Neither the broadcasters nor the listeners perceived the programme as targeted to the local listeners (in Tartu area). No efforts to prove otherwise could be observed in the output.

To achieve quality of content, the Ministry of Culture as the agency issuing the licences should define the substance of 'covering the local life', specify the required volume for it and provide some qualitative guidelines (e.g., by genre) on covering local issues.

It is an issue for a media political discussion as to how to define a 'local programme' and its obligatory qualitative elements for meeting the public interest. Under the local licence, solely rebroadcasting a nationwide programme produced in Tallinn appears to be deceptive and damaging to the competition. As detected while listening to the programme, the licence holder (AS Taevaraadio) has not invested in anything for covering Tartu-related topics. Tartu received even less coverage than it would have been reasonable had it just been a location in a larger nation-wide dissemination network.

Russkoe Radio is a professional music and entertainment programme, the format features of which do not naturally enable its programmes to provide sufficient service to inform the local audience and to regionally integrate it.

An individual question rises if the requirement to produce original programming can be fulfilled by rebroadcasting a programme produced under another activity licence which, however, has been produced and broadcast by the same licence holding legal entity.

Conclusions

1. Quantitatively on the weekday – Monday – the programme of *Russkoe Radio Tartu* met the minimum quota by MeTS for news output (5.4 percent). **On Saturday, the news output was 3.3 percent and on Sunday – 1.6 percent** which indicates that **on either weekend days the quota did not meet the criteria**. News has been produced by the radio service provider itself.

⁶ The monitoring fails to indicate the number of these spots, as due to its shortness they may have not been always perceptible for the monitoring listeners.

2. The 20 percent talk criteria prescribed by the activity licence from 07.00 to 20.00 was exceeded on Saturday (20.3 percent) and on Monday (28.6 percent). **On Sunday, the criteria was not met** (16.7 percent).

3. **Complying with the requirement to cover local life has been the most problematic feature with *Russkoe Radio Tartu*.** Under the licence for local broadcasting, no local programming is produced, even partially. Also, in the general news flow the Tartu region coverage is rare.

To achieve quality in contents, the Ministry of Culture as the agency issuing the licences should define the substance of ‘covering the local life’, specify the required volume of it and provide some qualitative guidelines (e.g., by genre) on covering local issues.

Media politically, it would be reasonable to define a ‘local programme’ and specify its obligatory qualitative elements to meet the public interest. Currently under the local licence, solely rebroadcasting a nationwide programme produced in Tallinn appears to be deceptive and damaging to competition. The study deducing that the licence holder (AS *Taevaraadio*) had not invested anything for covering Tartu-related topics. Tartu was covered even less that it would have been reasonable if Tartu was just a part of a large nation-wide dissemination network.

Quantitatively, covering local topics for 2-5 minutes per day sounds insufficient regards to the licence obligations. Qualitatively, it raises questions if a couple of odd news items and some encyclopedic information provided (1h30m) daily could meet the requirement to cover local life.

4. The question still stands if the requirement to produce original programming can be fulfilled by rebroadcasting a programme produced under another activity licence which, however, has been produced and broadcast by the same licence holding legal entity.

5. The legal limits to duration of advertising have been complied with by *Russkoe Radio Tartu*.

Comparison to earlier monitoring results

Russkoe Radio Tartu was also monitored in 2011 – during the periods of 12-14 May and 23 May to 5 June.

1. Improper compliance with news quota on weekends was detected during both monitoring periods. By November 2012 the situation had not improved and the competent supervisory agency has not required any improvement from the licence holder.

2. The monitoring in 2011 detected narrow compliance with the talk proportion quota. In 2012, the criteria has not been met on Sunday and barely so on Saturday.

3. The 2011 monitoring observed that “under the local activity licence, no local programming was produced, not even partially. Also, in the general news flow, the Tartu region coverage was rare.” On 12 August 2011, the Ministry of Culture issued AS *Taevaraadio* a precept to comply by 01 October 2011 “with the requirements of the activity licence issued by the Directive of the Minister of Culture, No 33 (26.01.2010) under which the programme *Russkoe Radio Tartu* needs to cover the

topics about Tartu and its region”. About a year after the precept, some formal improvement had occurred: the encyclopedic programme segment has been reintroduced and the week day morning show included a Tartu news bulletin «Тартуский вестник», whereas neither quantitatively nor qualitatively the coverage of Tartu topics had increased, or its targetedness to the local audience improved.

4. From the media political standpoint, the question still remains unanswered, if the requirement to produce original programming can be fulfilled by simply rebroadcasting a programme produced under another activity licence which, however, has been produced and broadcast by the same licence holding legal entity.

Appendices

1. Daily tables of programme monitoring analysis⁷.
2. Thematic itemization of news bulletins and analogous output⁸.
3. Monitoring methodology, attaching the sample of the listeners' form⁹.
4. Recording of the programme on CDs¹⁰.

⁷ In this translation, provided fragmentally, as for an illustration. In full, annexed in Estonian.

⁸ In this translation, provided fragmentally, as for an illustration.

⁹ Not provided in this translation, as it has been described in the main text.

¹⁰ Not annexed to this translation.

Time		Content divide by genre				By topic			Episode's topic. Other remarks
Start	End	Talk	Advertising	News		Local (incl news)			
				Compact news- casts (bulletin or longer)	Other news content	Tartu and the area topics in total	Tartu and the area topics with general news value	Tartu and the area topics targeted to the local audience	
16:59:07	17:02:40	0:03:33		0:03:33					News
17:06:12	17:07:21	0:01:09							Announcement
17:14:07	17:15:24		0:01:17						Advertising
17:15:24	17:15:30	0:00:06							1331 msg
17:18:53	17:20:22	0:01:29							HI-news (foreign)
17:24:14	17:24:20	0:00:06							Time announcement
17:24:20	17:24:40		0:00:20						Advertising
17:24:40	17:24:46	0:00:06							www-msg
17:30:55	17:32:22		0:01:27						Advertising
17:35:42	17:35:47		0:00:05						Advertising
17:35:47	17:36:09	0:00:22			0:00:22				Weather
17:36:09	17:36:29		0:00:20						Advertising
17:44:14	17:45:43		0:01:29						Advertising
17:45:43	17:45:49	0:00:06							1331 msg
17:45:49	17:46:00		0:00:11						Paid private announc.
17:46:00	17:46:06	0:00:06							1331 msg
17:49:13	17:49:53	0:00:40							"Hit-compot" trailer
17:56:29	17:57:00	0:00:31							Announcement
18:01:15	18:06:49	0:05:34		0:05:34					News
18:06:49	18:07:19	0:00:30							"Svyazi" dramatized ident
18:10:41	18:13:57	0:03:16							announcement, greetings
18:17:55	18:18:46		0:00:51						Advertising
18:18:46	18:18:55	0:00:09							1331 msg + "Svyazi" ident
18:22:32	18:27:16	0:04:44							announcement, incall, time ann.
18:31:23	18:32:35		0:01:12						Advertising
18:35:55	18:41:10	0:05:15							announcement, incall
18:44:35	18:44:39		0:00:04						Advertising
18:44:39	18:45:22	0:00:43			0:00:43				Weather
18:45:22	18:45:42		0:00:20						Advertising
18:45:42	18:46:23	0:00:41							announcement
18:50:29	18:51:40		0:01:11						Advertising
18:51:40	18:54:56	0:03:16							idents, announcement, incall
18:58:24	18:59:58	0:01:34							greetings
19:02:52	19:03:13	0:00:21							"Svyazi" dramatized ident
19:06:45	19:08:27	0:01:42							announcement, greetings
19:11:24	19:16:48	0:05:24							SMS-loosimine, greetings
19:20:23	19:20:52	0:00:29							1331 msg + "Svyazi" dramatized ident
19:23:22	19:28:09	0:04:47							greetings, incall
19:32:02	19:32:09	0:00:07							greetings
19:32:09	19:32:29		0:00:20						Advertising
19:32:29	19:32:47	0:00:18							"Svyazi" ident
19:36:38	19:41:34	0:04:56							greetings, incall
19:44:25	19:44:29		0:00:04						Advertising
19:44:29	19:45:13	0:00:44			0:00:44				Weather
19:45:13	19:45:33		0:00:20						Advertising
19:45:33	19:46:25	0:00:52							Trt 101.2, ident + greetings
19:49:25	19:49:56		0:00:31						Advertising
19:49:56	19:50:31	0:00:35							1331 msg + "Svyazi" dramatized ident
19:53:53	19:55:20	0:01:27							announcement, greetings
19:59:37	19:59:52	0:00:15							RR frequencies across Estonia
20:21:00	20:21:12	0:00:12							Morning Show trailer (wd)
20:49:03	20:49:22	0:00:19							1331 msg: who sings?
20:58:47	20:59:02	0:00:15							RR frequencies across Estonia
21:13:27	21:14:11		0:00:44						Advertising
21:23:50	21:24:09	0:00:19							1331 msg: who sings?
21:27:50	21:28:36		0:00:46						Advertising
21:46:55	21:47:21		0:00:26						Advertising
21:58:47	21:59:02	0:00:15							RR frequencies across Estonia
22:15:16	22:16:01		0:00:45						Advertising
22:29:08	22:29:55		0:00:47						Advertising
22:43:43	22:44:10		0:00:27						Advertising
22:52:07	22:52:26	0:00:19							1331 msg: who sings?
22:59:39	22:59:54	0:00:15							RR frequencies across Estonia
23:06:49	23:07:29	0:00:40							"Hit-compot" trailer
23:14:47	23:15:35		0:00:48						Advertising
23:25:32	23:25:52	0:00:20							1331 msg: who sings?
23:29:39	23:30:24		0:00:45						Advertising
23:43:40	23:44:01		0:00:21						Advertising
23:58:36	23:58:51	0:00:15							RR frequencies across Estonia

Time		Content divide by genre				By topic			Episode's topic. Other remarks
Start	End	Talk	Advertising	News		Local (incl news)			
				Compact news-casts (bulletin or longer)	Other news content	Tartu and the area topics in total	Tartu and the area topics with general news value	Tartu and the area topics targeted to the local audience	
Total duration:		4:26:49	0:54:16	1:06:38	0:11:15	0:05:26	0:00:00	0:00:00	
% of daily volume:		18,5%	3,8%	4,6%	0,8%	0,4%	0,0%	0,0%	23:59:59
				5,4%					
Hourly:									
00:00-05:59		0:04:46	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	
6:00	Total	0:36:07	0:00:42	0:07:31	0:00:40	0:02:35	0:00:00	0:00:00	
	%	60,2%	1,2%	13,6%		4,3%	0,0%	0,0%	1:00:00
7:00	Total	0:31:53	0:04:10	0:07:23	0:00:00	0:00:00	0:00:00	0:00:00	
	%	53,1%	6,9%	12,3%		0,0%	0,0%	0,0%	1:00:00
8:00	Total	0:35:11	0:03:42	0:06:39	0:00:16	0:00:00	0:00:00	0:00:00	
	%	58,6%	6,2%	11,5%		0,0%	0,0%	0,0%	1:00:00
9:00	Total	0:30:39	0:04:47	0:06:56	0:00:15	0:00:00	0:00:00	0:00:00	
	%	51,1%	8,0%	12,0%		0,0%	0,0%	0,0%	1:00:00
10:00	Total	0:08:11	0:01:40	0:03:55	0:02:44	0:00:00	0:00:00	0:00:00	
	%	13,6%	2,8%	11,1%		0,0%	0,0%	0,0%	1:00:00
11:00	Total	0:13:01	0:03:46	0:04:31	0:00:20	0:02:51	0:00:00	0:00:00	
	%	21,7%	6,3%	8,1%		4,8%	0,0%	0,0%	1:00:00
12:00	Total	0:07:27	0:04:55	0:03:59	0:01:51	0:00:00	0:00:00	0:00:00	
	%	12,4%	8,2%	9,7%		0,0%	0,0%	0,0%	1:00:00
13:00	Total	0:17:42	0:04:19	0:05:01	0:00:25	0:00:00	0:00:00	0:00:00	
	%	29,5%	7,2%	9,1%		0,0%	0,0%	0,0%	1:00:00
14:00	Total	0:07:38	0:02:39	0:04:17	0:01:55	0:00:00	0:00:00	0:00:00	
	%	12,7%	4,4%	10,3%		0,0%	0,0%	0,0%	1:00:00
15:00	Total	0:06:31	0:02:55	0:03:22	0:00:28	0:00:00	0:00:00	0:00:00	
	%	10,9%	4,9%	6,4%		0,0%	0,0%	0,0%	1:00:00
16:00	Total	0:08:41	0:04:50	0:03:57	0:00:32	0:00:00	0:00:00	0:00:00	
	%	14,5%	8,1%	7,5%		0,0%	0,0%	0,0%	1:00:00
17:00	Total	0:08:14	0:05:09	0:03:33	0:00:22	0:00:00	0:00:00	0:00:00	
	%	13,7%	8,6%	6,5%		0,0%	0,0%	0,0%	1:00:00
18:00	Total	0:25:42	0:03:38	0:05:34	0:00:43	0:00:00	0:00:00	0:00:00	
	%	42,8%	6,1%	10,5%		0,0%	0,0%	0,0%	1:00:00
19:00	Total	0:21:57	0:01:15	0:00:00	0:00:44	0:00:00	0:00:00	0:00:00	
	%	36,6%	2,1%	1,2%		0,0%	0,0%	0,0%	1:00:00
20:00	Total	0:00:46	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	
	%	1,3%	0,0%	0,0%		0,0%	0,0%	0,0%	1:00:00
21:00	Total	0:00:34	0:01:56	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	
	%	0,9%	3,2%	0,0%		0,0%	0,0%	0,0%	1:00:00
22:00-00:00	Total	0:01:49	0:03:53	0:00:00	0:00:00	0:00:00	0:00:00	0:00:00	
	% (hourly)	1,5%	3,2%	0,0%		0,0%	0,0%	0,0%	2:00:00
Daytime proportion (7.00-20.00)									
		3:42:47	0:47:45	0:59:07	0:10:35	0:02:51	0:00:00	0:00:00	
		28,6%	6,1%	7,6%	1,4%	0,4%	0,0%	0,0%	13:00:00
				8,9%					

Annex 2.

Thematic itemization of news bulletins and analogous output.

In this translation, provided fragmentally, as for an illustration.

Broadcast, topic	Locality
<u>05 november 2012</u>	
6.00 News Gas prize in the EU Estonia's state budget for insulating buildings HIV statistics Snow storm in Beijing	
6.40 Tartu News (Tartuski vestnik) Schoolboy stabbed in back Strange car accident at Alatskivi	☒ ☒ ☒
7.00 News Patients' Union against visit fee raising Criminal case against Peeter Mardna Ranking in competitiveness in the EU Merkel on Euro crisis	
8.00 News Usage of e-services is growing in Estonia Grant for Talent 2012 It will be cold by the end of November	
8.42 Capital City News All news from Tallinn	
9.00 News Ansip participating in economy summit Grant for Talent 2012 It will be cold by the end of November Candidates for USA president with almost equal public support	
10.00 News Power interruption in Rakvere Estonia's state budget for insulating buildings Patients' Union against visit fee raising Another hurricane expected in the USA	
11.00 News Energy conservation week Apartment co-operative's association buying electricity in gross HIV statistics Banks force sell real estate SecPO commences no criminal proceedings in re cyber attacks	Tartu enlisted Tartu enlisted

12.00 News

Apartment co-operative's association buying electricity in gross
Banks force sell real estate
HIV statistics
Est-Fin joint migration survey on salaries

Tartu enlisted

UT indicated as source

13.00 News

Estonia runs for UN Human Rights Council
Court adjudication on Trepri Street in Tallinn
Man shot in Narva
Est-Fin joint migration survey on salaries

UT indicated as source

14.00 News

State Audit discovered risks of corruption in municipalities
Salary increase and employment rates
Banks force sell real estate
Apartment co-operative's association buying electricity in gross

Tartu enlisted

15.00 News

Situation with unemployment in Estonia
Number of public servants in Estonia is decreasing
Events in Syria
Reforms in Greece discussed in the parliament
Cocaine arrested in Venezuela

16.00 News

Tallinn budget for kindergartens
Estonian sailor kidnapped in Nigeria returned home
Power interruption in Haapsalu
International financial news
Investigation of a murder in Georgia
Refuting the NYT news

17.00 News

Job market analysis by the Bank of Estonia
Errors in financial allotments by the EAS
Traffic cameras not working on a Tallinn major street-crossing
Weather and the traffic conditions are worsening
Person killed in Syria
Reforms in Greece discussed in the parliament

18.00 News

Job market analysis by the Bank of Estonia
State Audit discovered risks of corruption in municipalities
Traffic cameras not working on a Tallinn major street-crossing
Weather and the traffic conditions are worsening
Elections in Ukraine
Rating agency convicted in Australia
Reforms in Greece discussed in the parliament
US aircraft-carrier written off



Annex 1

POLICY SUGGESTIONS FOR FREE AND INDEPENDENT MEDIA IN ESTONIA

by

Harro-Loit, H. & Loit, U., 2012

In Policy report addressing state and non-state actors involved in the design and implementation of media policies supportive of media freedom and independence, the European Union and the Council of Europe (pp. 43–51). A report within the Mediadem project.

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Policy suggestions for free and independent media in Estonia

Halliki Harro-Loit and Urmas Loit

Policy summary

In our first report for the MEDIADEM project ('Background information report. The case of Estonia'), we presented a brief summary of the existing media structures and regulations which set the framework for public communication and media performance in Estonia. We also presented a schema of actors, based on their level of activity or passivity with regard to the implementation of media policies in Estonia. Our second report ('Case study report. Does media policy promote media freedom and independence? The case of Estonia') focused on the interplay between the different actors who influence the implementation of media policy in Estonia and the dominant values followed by these actors (both reports are available at the MEDIADEM website). The analysis of the implementation of media policy included an analysis of the Supreme Court cases related to the media since 2000, as well as an analysis of the implementation of the legal framework and the self-regulation system with an emphasis on the cases proceeded by the two impartial bodies for the settlement of press disputes: *Avaliku Sõna Nõukogu* (ASN – the Public Word Council) and the publishers' Press Council (PC). Different empirical sources were used to analyse any problems related to the perception of media performance and the policy tasks for different actors: academic research articles, articles from the press, as well as seventeen semi-structured interviews conducted with politicians, public officials, representatives of national regulatory authorities, journalists and editors-in-chief.

According to the Freedom House, Estonia ranked 22nd in terms of 'global media freedom' in 2012, sharing its position with the United States. Besides the strong constitutional protection of press freedom, the small size of the media market is an important contextual factor that determines media policy. At the same time the Estonian market (with a total population of 1.3 million of whom 0.9 million are consumers of the Estonian language media) disfavours competition among several media companies, as too many companies would cause fragmentation of resources. An important contextual factor is also the ultra liberal and market-oriented media policy. By taking into consideration these contextual factors and the research tasks performed in the framework of the MEDIADEM project, the major policy recommendations for the promotion of media freedom and independence in Estonia are the following:

- 1. Review the liberal and market-oriented approach to media policy**
- 2. Enhance independent mechanisms for the scrutiny of broadcasting organisations**
- 3. Support professional journalism, transparency of job appointments and accountability of individual journalists**
- 4. Balance the freedom of the press and individual rights in the context of justice administration**
- 5. Promote multi-faceted debate on media ethics**
- 6. Integrate journalists' professional education and media literacy in the media policy**

Key observations

While the Estonian national strategy of media politics has been liberal since the 1990s and the freedom of speech – and especially the freedom of the press – has been highly protected, the overall media policy of the country is highly heterogeneous. Unlike other post-soviet countries, there is no political parallelism. **Economic factors are more relevant to the issue than political ones.** Research findings provide evidence that Estonia has a liberal and market-oriented approach to media policy. The state does not subsidise professional journalism either directly or indirectly (e.g. via taxes).

The small market favours oligopoly of professional media channels: the press market is predominantly shaped by two media groups: *Eesti Meedia* and *Ekspress Grupp*. The first of these groups possesses 5 out of the 25 local newspapers. There are also two major groups that dominate the radio market and another two that dominate the television market. The number of local radio stations is few (six), and local television stations cannot emerge because of technical aspects of the state digital TV policy. Prime news flows are produced by a few media organisations, and consequently the number of people who decide upon news content has been narrowed down.

The system of financing the public service broadcaster (PSB) is unpredictable and unsustainable, and does not fully safeguard the growing importance of production of public broadcasting content. The parliament allocates finances to the PSB annually, while the law prescribes three-year envisagement. Recent years' budgets have enabled the PSB to fulfil short-term tasks, but long-term tasks still remain poorly performed. Political influence on the PSB is relatively low, although it has increased within the last couple of years.

The media content is regulated only in licensed broadcasting. **The provisions concerning broadcasting** (audiovisual media services under the new law, including radio), however, **have been supervised randomly, except for advertising TV quotas.** The position of the current Minister of Culture, Mr. Rein Lang, indicates that the government would rather abolish the licensing and restrictive programming provisions than allocate more resources for surveillance. Divergent compliance with legal provisions by some market players creates unequal competitive conditions and infringes legitimate expectations of the general public towards the channels which make use of the limited resources (broadcasting frequencies).

The Electronic Communications Act sets out technological neutrality as the core principle. This keystone has never been questioned.

In Estonia, the professional culture of journalism is protected by tradition: a history of reading newspapers, professional education and media research. Professional education and research have a crucial influence on journalistic culture. Estonian professional education in journalism dates back to 1954. Since then, the Estonian approach to journalistic education has been developed in the academic environment. However, better cooperation and dialogue between educators of journalism and representatives of the mass media and the public is needed, as there is some tension between the practice of the (market-led) journalistic institutions and public expectations about the functions of 'good journalism'.

The ability of the journalists' trade union to carry out its social mission is weak, and journalists are rather marginalised as a group of media policy actors. Editors-in-chief are better represented via the Estonian Newspaper Association and its self-regulatory body, the Press Council. The number of professional journalists has fallen from app. 1,200 in 2004 to app. 900 in 2012. This might become one of the most critical factors to work against the independent performance of the media.

The small job market together with the liberal approach to media policy and the weakness of the trade union of journalists might endanger professional journalism on both the institutional and individual level. At the same time, economic pressure from marketing communication is growing. It is unequal towards different channels and formats of journalism. Magazines, some television channels and soft news producers at daily newspapers experience more pressure than journalists who work at hard news departments. Estonian professional journalists do not form a homogenous community with well-established professional ideology. The borders between the news media, infotainment and advertorials are increasingly blurring and the audience needs special competencies to distinguish between news and marketing messages.

The Supreme Court has demonstrated an extremely defensive attitude towards the freedom of the press, especially until the beginning of the 21st century. Since then, the quality of argumentation has been increasing in the court rulings. Truth is the value that has been discussed most of all, while the rulings of the Supreme Court indicate that truth is also the most advocated value. As defamation is not covered by the Penal Code, there are no criminal procedures that could be applied against the freedom of the media. Besides, it is rather expensive to bring a lawsuit against a media organisation – there have only been 29 media-related cases discussed in the Supreme Court since 2000.

The biggest barrier to the promotion of media literacy and the implementation of the concept of the use of communications skills is the lack of political decisions concerning citizen education on how to behave in the information society.

The levels of effort applied by different actors to the implementation of media policy appear to be unequal. Politicians are passive actors, rather preferring not to interfere. The influence of the owners of private media is indirect and not transparent. The influence of editors is ambiguous, and the influence of journalists on the media policy is marginalised. Public criticism of the media is marginal. On the other hand, the court system operates on a clear value-oriented basis, and the self-regulatory system with its two bodies has provided a forum for a relatively wide discourse on relevant moral dilemmas and good journalistic conduct. There is an ongoing value conflict between the protection of privacy and the public need for information, which is also reflected in cases dealt with by the Data Protection Inspectorate.

Policy recommendations

1. Review the liberal and market-oriented approach to media policy

The EU liberal media policy, which advocates private media, is not appropriate for a very small media market. First, the explosion of information has increased the number of options for choice, but has also led to a high degree of information waste and an overload of information. Secondly, the telecommunication companies have become major players and profit-makers, while content producers (especially news producers) are currently losing their resources. While the majority of consumers might prefer entertainment, democracy needs professional journalism to perform surveillance over small and big power-holders. Therefore content producers need some force to counterbalance the market forces. As Estonia is one of the few European countries that does not subsidise the production of journalistic content, an appropriate taxing policy should be discussed to support professional news production. A new model for financing the public service media should be developed.

Multidimensional analysis implies systematic data collection and the possibility to monitor the dynamics of resources on an annual basis. At the same time, a system of obligatory and regular collection of data on the media should be developed with a special focus on the dynamics of human resources (e.g. numbers of professional journalists in media organisations and freelancers; their age, level of education, career, experience and employment contracts – full-time or part-time, salaries). Existing data, found in various databases, should be synthesised. This would enable rational decisions concerning the professional resources that are needed for the functioning of high-quality journalism. Representatives of various media organisations and researchers should work together to develop such a system of continuous data collection where the human resources data and financial data would be integrated.

The liberal and market-oriented approach to the media policy should be critically reviewed according to the needs of the Estonian democracy and culture. Political decisions should be based on a multidimensional analysis of the performance of different media sectors as well as specific analysis of the media economy in Estonia. In this respect, the following measures might be pointed out for consideration:

- When planning state activities concerning the media, the state authorities should take into account the ongoing changes in the media economy.
- Media practitioners and media researchers should promote appropriate knowledge about the complexity of media regulation and policy.
- A new media policy strategy, based on systematic data collection and analysis, should be adopted.
- A new business model for the public service media should be developed after public discussion to ensure the growing importance of the public service media in the production of high-quality information.

2. Enhance independent mechanisms for the scrutiny of broadcasting organisations

Estonia has not adopted any legal act to regulate the media in general, although there is a law that regulates the audiovisual media. The research conducted within the framework of the MEDIADEM project proved that there is no monitoring of the performance of broadcasting organisations. Penalties for not complying with the law or the licence conditions have only been applied in very few cases and thus possible penalties do not motivate the broadcasters to follow the licence conditions or the law. The development of media policy, the processing of licences as well as supervision – all these are responsibilities of the Ministry of Culture. No actual compromise of independent regulatory functions has occurred, but this can apparently be suspected. Moreover, the media department of the Ministry is currently not manned at all and, therefore, it cannot perform its tasks. For this reason it is necessary to establish an effective independent body to supervise the performance of media organisations.

State authorities should perform effective and sufficient scrutiny concerning the performance of media service providers. In this respect, the following measures might be pointed out for consideration:

- The provisions of the Media Services Act should be equally enforced on all market players.
- A supervisory body should be established with appropriate financial and human resources to carry out surveillance functions.
- An effective independent regulator should be established to supervise the performance of media organisations.
- The existing legislation should be assessed and relevant amendments made if necessary to assure effective and sufficient monitoring of the performance of broadcasters.

3. Support professional journalism, transparency of job appointments and accountability of individual journalists

Because of extensive changes in the media economy and business models during recent years, resources for the production of professional high-quality news content have been cut down. Journalists say that they need to work quicker and have less time for analysis and checking facts; some journalists describe a value conflict between what they consider high-quality reporting and what is valued by their media organisation (e.g. speed and news to satisfy public curiosity). At the same time, while being critical, they do not ‘fight’ for their personal values. For their job safety, it is more reasonable for them to remain loyal to the values of their organisations.

The changing business model in journalism is also causing some changes in career models in Estonia and all over Europe. More journalists are earning money as freelancers or part-time employees, irrespective of the fact that this type of career model is insecure from the economic point of view.

There is a need to reinforce the trade union of journalists in Estonia, which is weak in protecting the autonomy of individual journalists and their job safety. The requirement for job safety should first of all serve as a tool for the protection of the autonomy and accountability of individual journalists and as a tool to balance against the commercial interests of the media organisations. The existence of a small professional community means that each single journalist might have a strong influence on news discourse. Therefore it is important that entrance to the journalistic market - and journalists’ competences – become more transparent. It is not in the public interest to guarantee job security equally for all journalists, but rather to support highly qualified journalists and journalists who are working outside the capital. Therefore the public should know for what reasons any key journalist is employed or dismissed by media organisations: is it for his or her professional competencies (and which ones?), moral sensitivity, close relations with politicians or something else?

Given that this kind of regulations that serve the public interest can only be applied in the public sphere, transparency of job appointments should first be applied in the PSB as the implied flagship of high-quality journalism.

The individual accountability of journalists should also be promoted. This could be achieved if journalists themselves present their personal explanations to both press councils (ASN and PC). Although the explanations provided by the media organisations and editors-in-chief are indeed important for the public debate on media ethics, the analysis shows that such explanations are dominated by organisational values, while personal dilemmas and the personal responsibility of the reporter or the middle-rank editor are hidden for the public.

Newsroom decision-making processes and background stories are seen by the editors-in-chief of national newspapers as inside information and therefore as a form of trade secret. Local journalists and the editors-in-chief of local newspapers tend to value a more open editorial process and close relations with the community. Therefore the dissemination of best practice cases of editorial transparency and individual accountability might promote positive changes in newsroom mentalities regarding the transparency and autonomy of individual journalists.

Given that media critique is almost nonexistent and the news organisations are not transparent to the public, it is the cases that are brought to either one of the press councils, the ASN or the PC, which help to create public discourse on media ethics and hopefully some kind of dialogue between the press and the public. The two press councils provide more diversity to the debate on media ethics, which is important for the development of professional ideology.

Policy makers and publishers should clarify the professional competencies required from journalists and increase transparency as regards the conditions of entry to the journalistic job market. The individual accountability of journalists should be promoted. In this respect, the following measures might be pointed out for consideration:

- The Union of Journalists should be encouraged to insist more on protecting the autonomy of journalists as individuals (collective agreements as well as individual accountability).
- The Council of the PSB should be encouraged to initiate public discussion on the mandatory competencies of journalists and heads of department at the PSB.
- Media organisations should encourage individual journalists to respond to either one of the press councils in case of complaints on their reporting themselves.
- There should be mandatory collection of statistical data on journalists: the number of professional journalists in media organisations and freelancers (including their age, level of education, career, experience, type of employment contract, and workload), in order to make rational decisions on the professional resources needed for high-quality functioning of journalism.

4. Balance the freedom of the press and individual rights in the context of justice administration

The Estonian courts have been supportive of free media in their rulings, while in recent years they have also focused on the protection of individual rights, such as privacy and the protection of personal data. The court practice has shifted towards more sophisticated argumentation on the need to balance the rights of individuals and the public need for information. Still, relatively few cases are taken to the Supreme Court. One reason for this

might be the high costs related to a lawsuit and fairly small indemnifications for moral damages. Common people without high incomes have hardly any motivation to defend themselves at court, even if they have been seriously harmed by the media. Today, the Internet archives provide very easy access to any published materials that may be incorrect in terms of their content, defamatory or cause infringement of privacy. In some cases, the Supreme Court has overruled the argumentations of the basic values adopted by the courts of the first and second instance. It is therefore important that the media-related lawsuits would end up in the Supreme Court. However, one cannot appeal to the Supreme Court without employing a lawyer.

Estonian courts have been rather sparing at sentencing moral damages. One of the largest compensations sentenced from a media organisation was EEK 200,000 (EUR 12,782), while the average compensation has been approximately EUR 320.

In conclusion, although the Supreme Court has generally protected universal values, such as truth and privacy, in its rulings, the Court's influence on the media policy has been meagre. Perhaps the most influential case in this respect was the *Vjatšeslav Leedo* case. As a result of the settlement of this case, it was clarified whether the online reader comment sections on the media websites must be considered as part of the journalistic output, and whether the media organisation is liable for the content of such sections.

The legislator should develop *modi operandi* to balance the freedom of the press and the individual rights of persons both in judicial and extrajudicial proceedings, and grant individuals the right to define their private life and oblige the media to provide the general public with information that is highly important for democracy. In this respect, the following measures might be pointed out for consideration:

- The potential positive influence of indemnifications for moral damage on the access of media organisations and individuals to courts should be analysed, with the final aim to better satisfy the public need for trustful information.
- Individuals should be enabled to define their private sphere and be sufficiently indemnified for any serious personal damage.
- The state should provide sufficient legal assistance to individuals in order to enable common persons to re-establish their individual rights against the mass media.
- The state legal assistance system should also include extrajudicial proceedings to remedy any violations of personal rights.
- Freedom of information should also be assured in cases related to personal data protection proceedings in order to avoid an unbalanced and excessive application of the Personal Data Protection Act, and also emphasise the individual's own responsibility at providing personal data.

5. Promote multi-faceted debate on media ethics

With its two press councils, Estonia experiences a two-faceted situation. On the one hand, many journalists consider this situation to be confusing. On the other hand, the analysis of the argumentation quality of the adjudications of these two councils (particularly of the cases

examined by both councils) demonstrates a positive influence on the diversity of public debate about moral dilemmas that may occur in journalistic work.

Journalists themselves complain about the pressure exercised on them by advertisers and public relations. However, some journalists do not see this blurring borderline between journalism and marketing as a moral conflict or as questioning professional ethics. One reason for this could be the absence of an ethics council for advertisers and marketing communication. Because of the lack of such a council, there are no sample cases that could help increase the sensitivity of journalists, of the public and of marketing professionals towards the value of objectivity in the news and the harm that could be caused by the ongoing legitimisation of hidden advertising. The existing Advertising Act seems insufficient to provide such mechanisms.

Even though professional journalists possess wide and relevant experience in their field, decision-making on public communication may not be trusted to one single interest group. Unlike legal norms, moral choices are always disputable, and the discussion should always give the answer to the question of ‘who watches the watchdog?’ In this respect, the two complementary press councils is a currently a good solution for the sake of principle of variety.

The state, the industry and civil society organisations should engage diverse actors involved in the field and initiate debate on media ethics in order to balance the different interests and values related to the mass media. The following measures might be pointed out for consideration:

- More discussions should be launched on moral issues – from the aspect of public interest.
- A self-regulatory or co-regulatory body should be established to examine complaints and problems that occur in the field of public relations and marketing. The principle of co-regulation could be included in the Advertising Act.

6. Integrate professional journalistic education and media literacy in the media policy

The development of media and communication competencies already at primary and secondary school should be incorporated in the general media policy as one of its important aims. Media education is indeed compulsory at Estonian schools under the national curriculum. It could be applied as a cross-curricular theme or as a special course (as part of the curriculum in the Estonian language and literature). Media education should, however, not be about just providing media literacy, but also about implementing a completely new style of learning and teaching (e.g. one of the principles of media education is to discuss about the students’ media experience, and this cannot be done without giving the students time to talk, to discuss and to argue, while the teachers must have methodological competencies to teach their students to analyse). Therefore media and communication competencies should be included in the teacher training programmes.

Professional journalistic education should also be considered as an important part of media policy. Besides bachelor and master programmes, it should receive attention also by higher levels of education. The journalists of today need a kind of education that enables them to learn and adopt new methods of processing information, makes them capable of noticing

value conflicts and carrying out value clarifications, provides them with the skills they need to learn the possibilities of new technology, etc. The challenge is not the curriculum but the didactics of teaching and the motivation to learn. The problem is that the needs of the news organisations do not always coincide with the needs of individual journalists. This is particularly true with regard to the clarification of values: quite often organisations rather prefer ‘collectively accepted values’.

Until now the media policy has belonged to the administrative field of the Ministry of Culture, while the Ministry of Education and Science has been responsible for education. Communication between the two ministries in the field of media literacy and professional journalistic education has not been sufficient, however.

The government should promote an understanding of the interrelatedness of professional journalistic education and overall media literacy. In this respect, the following measures might be pointed out for consideration:

- The importance of the Estonian news journalism as well as of the studies on journalism should be underlined as part of the Estonian cultural heritage.
- In order to improve the media and communication competencies of citizens, the communication between the Ministry of Culture and the Ministry of Education and Science as well as the universities that provide media and journalism education and teacher training programmes should be improved.
- Academic professional education should be promoted as a means to serve the public interest and the independent competitiveness of individual journalists, in order to provide a material force to counterbalance the commercialisation of the media and create a healthy tension between the various interests of the media industry.